URGENCY ORDINANCE NO. 1814

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, AMENDING THE ZONING PROVISIONS OF THE GARDENA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN ACCORDANCE WITH STATE LAW

WHEREAS, there is a shortage of affordable housing in California which has led to homelessness and causes people to drive longer distances to work or to double-up on housing space which impacts the quality of life and creates negative environmental impacts; and

WHEREAS, the California State legislature adopted more than eighteen (18) housing bills in 2019 to deal with the housing crisis; and

WHEREAS, one way to combat this problem is through the construction of accessory dwelling units (also known as second units, in-law units, and granny flats); and

WHEREAS, in order to encourage the construction of accessory dwelling units and junior dwelling units, the State Legislature has again amended Government Code section 65852.2 and section 65852.22; and

WHEREAS, the new State laws relating to accessory dwelling units and junior accessory dwelling units took effect on January 1, 2020 and, until the City adopts its own compliant ordinance, it is limited to the provisions contained in State law, eliminating local control; and

WHEREAS, the City desires to amend its regulations to be compliant with State law as soon as possible to retain local control over those items in which it still has discretion;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN, AS FOLLOWS:

Section 1. Chapter 18.04 of the Gardena Municipal Code is hereby amended by revising Section 18.04.163 to read as follows and adding Section 18.04.164 to read as follows:

18.04.163 Dwelling, accessory unit.

"Accessory dwelling unit" or "accessory unit" shall mean an attached or detached residential dwelling unit, or a dwelling unit located within a single-family dwelling, which provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation facilities on the same parcel of land as the single-family dwelling or multi-family dwelling is or will be situated. "Accessory dwelling units" includes efficiency units as defined in Health and Safety Code Section 17958.1 and manufactured homes as defined in Health and Safety Code Section 18007.

18.04.164 Dwelling, junior accessory unit.

"Junior accessory dwelling unit" shall mean a unit that is no more than 500 square feet and contained entirely within a single-family dwelling, not including an attached garage or other attached accessory structure.

Section 2. Section 18.12.050G.4 is hereby amended to read, as follows:

4. Accessory buildings: one-story accessory buildings, other than a garage, shall be set back four feet from the rear and side property lines when located in the rear one-third of the lot. Garages may be constructed along the rear and side property line when located in the rear one-third of the lot. Garages fronting on public streets shall maintain a minimum twenty-foot yard setback. All garages shall be provided with garage doors and new front facing garages and replacement garage doors for front facing garages shall be sectional type doors.

Section 3. Section 18.14.050G.4 is hereby amended to read, as follows:

4. Accessory buildings: one-story accessory buildings, other than a garage, shall be set back four feet from the rear and side property lines when located in the rear one-third of the lot. Garages may be constructed along the rear and side property line when located in the rear one-third of the lot. Garages fronting on public streets shall maintain a minimum twenty-foot yard setback. All garages shall be provided with garage doors and

new front facing garages and replacement garage doors for front facing garages shall be sectional type doors.

Section 4. Section 18.16.050G.4 is hereby amended to read, as follows:

4. Accessory buildings: one-story accessory buildings, other than a garage, shall be set back four feet from the rear and side property lines when located in the rear one-third of the lot. Garages may be constructed along the rear and side property line when located in the rear one-third of the lot. Garages fronting on public streets shall maintain a minimum twenty-foot yard setback. All garages shall be provided with garage doors and new front facing garages and replacement garage doors for front facing garages shall be sectional type doors.

Section 5. Section 18.20.050A.5 is hereby amended to read as follows:

5. Accessory Buildings.

a. Non-residential development – One-story accessory buildings may be constructed along the rear and side property lines when located in the rear one-third of the lot.

b. Residential development – One-story accessory buildings shall be set back four feet from the rear and side property lines.

Section 6. Chapter 18.13 of the Gardena Municipal Code is hereby amended to read, as follows:

CHAPTER 18.13
ACCESSORY DWELLING UNITS
AND JUNIOR ACCESSORY DWELLING UNITS

18.13.010 Purpose.

A. In enacting this section, it is the intent of the city to encourage the provision of accessory dwelling units to meet a variety of economic needs within the city and to implement the goals, objectives, and policies of the housing element of the general plan. Accessory dwelling units provide housing for extended family members, students,

the elderly in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create accessory dwelling units can benefit from added income, and an increased sense of security. Allowing accessory dwelling units in residential zones provides needed additional rental housing. This section provides the requirements for the establishment of accessory dwelling units consistent with Cal. Government Code §§ 65852.2 and 65852.22.

B. For purposes of this chapter, an existing residential dwelling, or the larger of two proposed units, is considered to be the "primary residence."

C. In cases of conflict between this chapter and any other provision of this title, the provisions of this chapter shall prevail. To the extent that any provision of this Chapter is in conflict with State law, the mandatory requirement of state law shall control, but only to the extent legally required.

18.13.020 Applications – Junior and Accessory Dwelling Units.

A. Applications for junior and accessory dwelling units shall be ministerially processed within 60 days of receipt of a complete application and approved if they meet the requirements of this Chapter.

1. If the application is submitted in conjunction with an application for a new single-family dwelling, the application for the junior or accessory dwelling unit shall not be acted upon until the application for the new single-family dwelling is approved, but thereafter shall be ministerially approved if it meets all requirements within 60 days.

2. The City shall grant a delay if requested by the applicant.

B. All applications for junior and accessory dwelling units shall be accompanied by an application fee.

C. Junior and accessory dwelling units shall be subject to applicable inspection and permit fees.

18.13.030 Zones allowed.

A. Accessory dwelling units shall be allowed on all legally existing residentially zoned lots where a single-family dwelling exists or has been proposed.

B. Accessory dwelling units shall be allowed on all legally existing residentially zoned lots where an existing multifamily structure exists.

C. Accessory dwelling units shall be allowed on all legally existing mixed-use zoned lots where an existing single-family or multifamily dwelling exists in accordance with section 18.13.060.

D. Nothing herein is meant to override the provisions of conditions, covenants, and restrictions for a housing development project relating to accessory dwelling units to the extent such restrictions comply with State law.

18.13.040 General requirements.

A Number. Unless otherwise allowed by Section 18.13.060A, only one accessory dwelling unit may be allowed per residential lot.

B. Accessory dwelling units shall not be sold separately from the primary residence.

C. Neither the accessory dwelling unit nor the primary residence, shall be rented out for less than thirty-one consecutive calendar days. A covenant shall be recorded to this effect in a form approved by the city attorney.

D. Owner/Occupancy. Accessory dwelling units may be rented independently of the primary residence. However, in the R-1 zone, the owner of the property must be an occupant of either the primary residence or the accessory dwelling unit in order for one of the two units to be rented and a covenant shall be recorded to this effect in a form approved by the city attorney. Notwithstanding the foregoing, the owner may rent both the primary residence and accessory dwelling unit to one party with a restriction in the lease that such party may not further sublease any unit or portion thereof. The owner-occupancy requirement shall not be imposed on any accessory dwelling unit approved between January 1, 2020 and January 1, 2025.

E. Impact Fees.

1. No impact fee shall be imposed on any accessory dwelling unit less than 750 square feet in size.

2. For accessory dwelling units 750 square feet or greater, impact fees shall be charged proportionately in relation to the square footage of the primary residence.

3. All applicable public service and applicable recreation impact fees shall be paid prior to occupancy in accordance with Government Code Sections 66000 et seq. and 66012 et seq.

4. For purposes of this section, "impact fee" shall have the same meaning as set forth in Government Code section 65852.2(f).

H. Accessory dwelling units shall not count in determining density or lot coverage and are considered a residential use consistent with the existing general plan and zoning designation for the lot.

I. Enforcement. Until January 1, 2030, the City shall issue a statement along with a notice to correct a violation of any provision of any building standard relating to an accessory dwelling unit that provides substantially as follows:

> You have been issued an order to correct violations or abate nuisances relating to your accessory dwelling unit. If you believe that this correction or abatement is not necessary to protect the public health and safety you may file an application with the Community Development Director. If the City determines that enforcement is not required to protect the health and safety, enforcement shall be delayed for a period of five years from the date of the original notice.

This section only applies to accessory dwelling units built before January 28, 2020.

18.13.050 Development regulations.

A. An attached or detached accessory dwelling unit shall be located behind the front yard setback, unless the accessory dwelling unit is being constructed in the exact location and to the same dimensions as a previously existing approved accessory structure, including an attached or detached garage.

B. Design.

1. An accessory dwelling unit, whether attached or detached, shall be consistent in architectural style, materials, colors, and appearances with the existing or proposed dwelling and the quality of the materials shall be the same or exceed that of the primary residence.

2. Window placement shall be sensitive to maintaining privacy between the accessory dwelling unit and the primary residence and neighboring residences.

3. An accessory dwelling unit shall have a separate entrance from the primary residence which shall be located on a different plane than the entrance for the primary residence in the case of a single-family dwelling.

4. To the maximum extent feasible, the accessory dwelling unit shall not alter the appearance of the single-family dwelling.

C. No passageway as defined in Government Code Section 65852.2(i) shall be required for the construction of an accessory dwelling unit.

D. Accessory dwelling units shall comply with all applicable building code requirements with the exception that fire sprinklers shall not be required in an accessory dwelling unit if they are not required for the primary residence.

E. Size.

1. The floor area of an attached or detached accessory dwelling unit shall not exceed 850 square feet for a studio or one bedroom or 1,000 square feet for a unit that contains more than one bedroom.

2. The minimum size of an accessory dwelling unit is 150 square feet.

3. Except for front yard setback requirements, the development standards of this section shall be waived in order to allow an accessory dwelling unit that is 800 square feet and at least 16 feet in height with four-foot side and rear yard setbacks.

F. Setbacks. Except as specified below, an accessory dwelling unit shall be required to comply with the setback requirements of the zone in which the unit is to be located.

1. No setback shall be required for an existing living area, or a legally existing accessory structure, including a garage, that is converted to an accessory dwelling unit or a new accessory dwelling unit constructed in the same location and built to the same dimensions as the existing structure.

2. No setback greater than four feet shall be required for side and rear yard setbacks for all other accessory dwelling units not covered by F.1 above.

3. An attached or detached accessory dwelling unit shall be at least six feet from all other buildings on the lot or on any adjacent lot.

G. Height. Unless an accessory dwelling unit is being built above a garage or attached to a single-family dwelling, the height of an attached or detached accessory dwelling unit shall not be any higher than the primary residence and in no event shall the height exceed twenty-five feet.

H. Parking.

1. Parking shall be required at the rate of one space for each accessory dwelling unit. No parking spaces shall be required for an accessory dwelling unit created within an existing living space.

2. Parking spaces may be provided through tandem parking on an existing driveway; provided, that such parking does not encroach into the public sidewalk.

3. Parking spaces for accessory dwelling units may be provided in paved portions of setback areas; provided, that the amount of paving does not exceed the total amount of paving and hardscaped areas that are otherwise allowed by this Title.

4. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, such parking spaces need not be replaced.

5. Tandem parking and parking in setback areas shall not be allowed if the Community Development Director makes specific findings that such parking is not feasible based upon specific site or regional topographical, or fire and life safety conditions.

6. Notwithstanding any other provision of this subsection H, no parking shall be required for the accessory dwelling unit if any of the following conditions apply:

a. The accessory dwelling unit is located within one-half mile walking distance of a public transit stop;

b. The accessory dwelling unit is located within an architecturally and historically significant district;

c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure;

d. When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit; or

e. When there is a car share vehicle located within one block of the accessory dwelling unit.

I. Utilities.

1. All utility installations shall be placed underground.

2. For an accessory dwelling unit contained within an existing single-family dwelling, or an existing accessory structure meeting the requirements of section 18.13.060A.1 below, the city shall not require the installation of a new or separate utility connection between the accessory dwelling unit and the utility or impose a connection fee or capacity charge. Such requirements and charges may be imposed when the accessory dwelling unit is being proposed within a new single-family dwelling.

3. For all other accessory dwelling units other than those described in subsection (I)(2) above, the city shall require a new or separate utility connection between the accessory dwelling unit and the utility and shall charge a connection fee or capacity charge that is proportionate to the burden of the proposed accessory dwelling unit based on the size or number of plumbing fixtures.

J. The number of curb cuts allowed shall be governed by the underlying zoning regulations.

K. An applicant may apply for an administrative site plan review by the Community Development Director pursuant to Sections 18.44.020C and D in order to turn an existing single-family dwelling into the accessory dwelling unit and develop a new primary residence elsewhere on the lot. In such case the existing single-family dwelling must meet all requirements of this chapter relating to accessory dwelling units, including size limitations.

18.13.060 Mandatory Approvals

A. Notwithstanding any other provision of this chapter, the City shall ministerially approve an application for any of the following accessory dwelling units within a residential or mixed-use zone. For new construction, if the unit is attached or detached, it shall be located behind the front yard setback line in a single-family zone:

1. A junior or accessory dwelling unit within the existing or proposed space of a single-family dwelling or accessory structure.

a. An expansion of up to 150 square feet shall be allowed in an accessory structure solely for the purposes of accommodating ingress and egress.

b. The junior or accessory dwelling unit shall have exterior access separate from the existing or proposed single-family dwelling.

c. The side and rear setbacks shall be sufficient for fire and safety.

d. If the unit is a junior accessory dwelling unit, it shall comply with the requirements of Section 18.13.070 below.

2. One new detached accessory dwelling unit with minimum four-foot side and rear yard setbacks on a lot with an existing or proposed single-family dwelling, provided that the unit shall not be more than 800 square feet and shall not exceed 16 feet in height.

a. A junior accessory dwelling unit may be developed with this type of detached accessory dwelling unit, provided it complies with the requirements of Section 18.13.060A, above.

3. On a lot with a multifamily dwelling structure, up to 25 percent of the total multifamily dwelling units, but no less than one unit, shall be allowed within the portions of the existing structure that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that each unit complies with state building standards for dwellings.

4. On a lot with a multifamily dwelling structure, up to two detached units, provided that neither unit is greater than 16 feet in height and has at least four-foot side and rear yard setbacks.

B. For those Junior/or Accessory dwelling units which require mandatory approval, the City shall not require the correction of legal, nonconforming zoning conditions.

18.13.070 Junior accessory dwelling units.

A. One junior accessory dwelling unit shall be allowed in an existing or proposed single-family dwelling. A junior accessory dwelling unit may be allowed on the same lot as a detached accessory dwelling unit where the detached accessory dwelling unit is no larger than 800 square feet and no taller than 16 feet.

B. The junior accessory dwelling unit shall be required to contain at least an efficiency kitchen which includes a sink, cooking appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit.

C. The junior accessory dwelling unit shall be required to have a separate entrance from the primary residence which shall be located on a different side of the home than the front door of the primary residence.

D. The junior accessory dwelling unit may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the junior accessory dwelling unit shall share sanitation facilities with the single-family residence and shall have direct access to the single-family residence from the interior of the dwelling unit.

E. No additional parking shall be required for a junior accessory dwelling unit.

F. Junior accessory dwelling unit shall be required to comply with applicable building standards, except that fire sprinklers shall not be required if they were not required for the single-family residence.

G. The City shall not require the correction of a legal nonconforming zoning condition as a requirement for the junior accessory dwelling unit.

H. The owner of property on which a junior accessory dwelling unit is constructed shall be required to record a deed restriction which shall run with the land and file a copy with the City. The deed restriction shall provide for the following:

1. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence;

2. A restriction that prohibits the junior accessory dwelling unit from being enlarged beyond 500 square feet;

3. A restriction from renting either the junior accessory dwelling unit or the single-family dwelling for less than 31 consecutive, calendar days;

4. A restriction that the owner resides in either the single-family dwelling or the junior accessory dwelling unit. Notwithstanding the foregoing:

a. The owner may rent both the single-family dwelling and junior accessory dwelling unit to one party with a restriction in the lease that such party may not further sublease any unit or portion thereof; and

b. This restriction shall not apply if the owner of the single-family dwelling is a governmental agency, land trust, or housing organization; and

5. A statement that the deed restrictions may be enforced against future purchasers.

I. For the purposes of applying any fire or life protection ordinance or regulation, or providing service water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered to be a separate or new dwelling unit.

Section 7. **CEQA.** This Ordinance is exempt to CEQA pursuant to CEQA Guidelines section 15282(h) which provides a statutory exemption for the adoption of an ordinance regarding accessory dwelling units to implement the provisions of Section 65852.1 and 65852.2 of the Government Code. As the standards of Government Code section 65852.22 relating to junior accessory dwelling units are incorporated into Government Code 65852.2, this exemption covers junior accessory dwelling units as well. Regardless of whether the City adopts this Ordinance, accessory dwelling units and junior accessory dwelling units must be allowed in the City in accordance with the standards set forth in State Statute. Therefore, this Ordinance is categorically exempt under the common sense exemption of CEQA Guidelines section 15061(b)(3) which provides that CEQA does not apply where it can be seen with certainty that the project will not cause any impacts.

Section 8. Effective Date. This Ordinance shall take effect immediately pursuant to Government Code section 36937. The grounds constituting the urgency are set forth in the Whereas clauses of this Ordinance.

Section 9. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase

thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

Section 10. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

Section 11. Transmission to HCD. The City Clerk shall send a copy of this Ordinance to the Department of Housing and Community Development, as required by State law.

PASSED, APPROVED AND ADOPTED this 28th day of January, 2020.

Tasha Cerda

Tasha Cerda, Mayor

ATTEST:

Mina Semenza

Mina Semenza, City Clerk

APPROVED AS TO FORM:

Carmen Vasquez, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:
CITY OF GARDENA)

I, MINA SEMENZA, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance being **Urgency Ordinance No. 1814** was duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a meeting of said City Council held on the **28th** day of **January, 2020,** and that the same was so passed and adopted by the following roll call vote:

AYES: COUNCIL MEMBERS TANAKA AND HENDERSON, MAYOR PRO TEM KASKANIAN AND MAYOR CERDA

NOES: NONE

ABSENT: COUNCIL MEMBER MEDINA

Becky Romero
for City Clerk of the City of Gardena, California

(SEAL)