ORDINANCE NO. 1856

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, AMENDING CHAPTERS 18.04 AND 18.13 OF THE GARDENA MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS AND MAKING A DETERMINATION THAT THE ORDINANCE IS EXEMPT FROM CEQA PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.17

WHEREAS, State law regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) has been continually amended by the State legislature; and

WHEREAS, the City of Gardena wishes to amend its provisions on ADUs and JADUs to be compliant with State law; and

WHEREAS, updating the city's ADU laws was a program in the 6th Cycle Housing Element; and

WHEREAS, a public hearing was duly noticed for the Planning Commission on June 20, 2023, at which time the hearing was continued; and

WHEREAS, a new public hearing was noticed for July 18, 2023 before the Planning Commission; and

WHEREAS, on July 18, 2023 the Planning Commission held a duly noticed public hearing at which time it considered all evidence presented, both written and oral; and

WHEREAS, at the close of the public hearing the Planning Commission adopted a resolution recommending that the City Council adopt the drafted ordinance; and

WHEREAS, on September 5, 2023, the draft ordinance was brought back to the Planning Commission for reconsideration and the close of the public hearing the Commission adopted a resolution recommending the City Council adopt this Ordinance;

WHEREAS, on October 10, 2023, the City Council held a duly noticed public hearing at which time it considered all evidence presented, both written and oral;

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 to read as follows:

Chapter 18.04 Definitions

J Definitions.

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

SECTION 2. 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 zones allowing residential uses~~zones~~ provides needed additional rental housing. This ~~section~~ chapter provides the requirements for the establishment of accessory dwelling units consistent with California Government Code Sections 65852.2 and 65852.22 ~~65852.2 and 65852.22~~.

B. For purposes of this chapter, "primary dwelling" shall mean as follows:

1. In the case of a single-family residential zone, the ~~an~~ existing single-family ~~residential~~ dwelling, or the larger of two proposed units~~., is considered to be the "primary residence."~~

2. In the case of any other residential or mixed-use zone in which a single-family dwelling exists on the property, the existing dwelling.

3. In the case of multi-family or mixed-use zone which allows a residential use, the existing or proposed multi-family units.

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 approved or denied ~~processed~~ within ~~sixty~~ 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 or multi-family dwelling, the application for the junior or accessory dwelling unit shall not be acted upon until the application for the new single-family or multi-family dwelling is approved, but thereafter shall be ministerially approved if it meets all requirements within ~~sixty~~ 60 days or denied within that same time period.

2. If the application is denied, the c~~C~~ity shall return a full set of comments in writing to the applicant with a list of items that are defective or deficient with a description of how the application can be remedied by the applicant. These comments shall be provided to the applicant within 60 days of a complete application.

3. If a detached garage is to be replaced with an accessory dwelling unit, the demolition permit shall be reviewed with the application for the accessory dwelling unit and issued at the same time.

4~~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.

D. Neither an application for a junior nor an accessory dwelling unit shall be denied due to the need to correct nonconforming zoning conditions, building code violations, or unpermitted structures that do no present a threat to public health and safety and are not affected by the construction of the unit.

18.13.030 Zones/Locations 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 or has been proposed.

C. Accessory dwelling units shall be allowed on all legally existing mixed-use zoned lots where an existing single-family or multifamily dwelling exists or has been proposed.

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.

E. An accessory dwelling unit may be constructed in an attached or detached garage.

18.13.040 General requirements.

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

B. Accessory dwelling units shall not be sold separately from the ~~primary residence~~primary dwelling, except to the extent that the sale meets the requirements of Government Code section 65852.26 with regard to a qualified nonprofit corporation.

C. Neither the accessory dwelling unit nor any other residence located on the property~~t~~, nor any part thereof, ~~he primary residence~~ shall be rented out for less than ~~thirty-one~~31 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~~primary dwelling. However, in the R-1 zone, the owner of the property must be an occupant of either the ~~primary residence~~primary dwelling 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~~primary dwelling 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 before January 1, 2025 or 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 ~~seven hundred fifty~~ square feet in size.

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

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).

F. 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.

G. 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 subsection G. only applies to accessory dwelling units built before January ~~28~~1, 2020.

H. A deed restriction shall be required to be recorded against the property on which an accessory dwelling unit is constructed, which restriction shall run with the land. The deed restriction shall provide for the following:

1. A prohibition on the sale of accessory dwelling unit separate from the sale of the primary dwelling(s), except as provided in Government Code section 65852.26;

2. A restriction that prohibits the accessory dwelling unit from being enlarged beyond that which is permitted by Chapter 18.13 of the Gardena Municipal Code;

3. A restriction from renting either the accessory dwelling unit or the primary dwelling(s) or any portions thereof for less than thirty-one consecutive, calendar days;

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

5. A statement that the City shall be entitled to all legal and equitable remedies available under the law upon the default of any covenant in the deed restriction.

6. A statement that the prevailing party shall be entitled to reimbursement of its reasonable attorneys' fees and costs.

18.13.050 Development regulations.

A. Accessory dwelling units shall be required to comply with the objective development standards of the underlying zoning district and the applicable provisions of Chapter 18.42 unless superseded by a provision of this chapter or if such regulation prohibits the construction of an accessory dwelling unit of at least 800 square feet.

~~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.~~

B. ~~3.~~ An accessory dwelling unit shall have a separate entrance from the ~~primary residence~~primary dwelling which shall be located on a different plane than the entrance for the ~~primary residence~~primary dwelling 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~~primary dwelling and the construction of

an accessory dwelling unit shall not trigger a requirement for sprinklers to be installed in the primary dwelling.

E. Size.

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

2. The minimum size of an accessory dwelling unit is one hundred fifty 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 ~~eight hundred~~ square feet, does not exceed the height requirements set forth in subsection F. below, and ~~at least sixteen feet in height with~~ has a minimum of 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 subsection (F)(1) of this section.

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.

4. 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. This requirement shall be waived to the extent that it prohibits an accessory dwelling unit of 800 square feet from being built with four foot side and rear yard setbacks in compliance with all other development standards.

5. No portion of an accessory dwelling unit may encroach into any public or private easement such as a utility easement unless the easement holder has provided written permission to construct the accessory dwelling unit in the manner proposed. To establish a rebuttable presumption of compliance with this requirement, the

applicant may provide a written declaration under penalty of perjury affirming compliance with this requirement. The declaration shall be in a form acceptable to the City Attorney.

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.~~ The height of an accessory dwelling unit shall be as follows:

~~———~~1. A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

~~———~~2. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within ½ mile walking distance of a major transit stop or a high-quality transit corridor. An additional 2 feet shall be allowed if required to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

~~———~~3. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

~~———~~4. A height of 25 feet or the height limit of the applicable zone that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling unit or built above an existing garage. In no event shall the accessory dwelling unit exceed 2 stories.

5. An accessory dwelling unit may be built on top of a garage provided that the garage is maintained for parking and the total height of the structure does not exceed 25 feet. If an accessory dwelling unit is built pursuant to this provision, a declaration shall be recorded that the garage must be maintained for parking.

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 of this section, 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~~primary dwelling 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; or

f. When a permit application for an accessory dwelling unit is submitted with a permit application~~s~~ to create a new single- or multi-family dwelling on the same lot, provided the ADU or parcel satisfies any other criteria listed in this paragraph.

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 18.13.060(A)(1), 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) of this section, 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~~ 18.44.020~~(C) 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 if both structures meet ~~. In such case the existing single-family dwelling must meet~~ all requirements of this chapter and the R-1 zone~~relating to accessory dwelling units~~, including size limitations.

L. Affordability information (RHNA). Applicants shall provide the city with all information reasonably requested by the city to allow the city to classify the ADU by income category for the city's annual housing report.

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. One accessory dwelling unit and one ~~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 ~~one hundred fifty~~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.

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 ~~eight hundred~~800 square feet and shall not exceed ~~sixteen feet in height~~ the height requirements set forth in section 18.13.050.G.1 -3, above.

a. A junior accessory dwelling unit may be developed in conjunction with this type of detached accessory dwelling unit, provided it complies with the requirements of subsection A.1, above ~~of this section~~.

3. On a lot with a multifamily dwelling structure, up to ~~twenty-five~~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 of not more than 800 square feet each; provided, that neither unit exceeds the height requirements set forth in section 18.13.050.G.1 -3, above, ~~is greater than sixteen 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.

C. The deed restriction requirements of Section 18.13.040.~~D~~ shall apply to units approved under this section.

18.13.070 Junior accessory dwelling units.

A. One junior accessory dwelling unit shall be allowed in an existing or proposed single-family dwelling, including in an attached garage. 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 ~~eight hundred~~800 square feet and no taller than ~~sixteen feet~~the height allowed pursuant to section 18.13.060F.1-3.

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~~primary dwelling which shall be located on a different side of the home than the front door of the ~~primary residence~~primary dwelling.

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 units 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. A deed restriction shall be required to be recorded on the ~~The owner of~~ property on which a junior accessory dwelling unit is constructed, which ~~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 five hundred square feet;

3. A restriction from renting either the junior accessory dwelling unit or the single-family dwelling or any part thereof for less than ~~thirty-one~~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.

6. A statement that the City shall be entitled to all legal and equitable remedies available under the law upon the default of any covenant in the deed restriction.

7. A statement that the prevailing party shall be entitled to reimbursement of its reasonable attorneys' fees and costs.

l. 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 3. This Ordinance is statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 which provides CEQA does not apply to the adoption of an ordinance to implement ADU law.

SECTION 4. 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 5. This Ordinance shall take effect on the thirty-first day after passage.

SECTION 6. 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 7. The Community Development Department shall send a copy of this Ordinance to the Department of Housing and Community Development within 60 days of adoption as required by Government Code section 65852.2.

PASSED, APPROVED AND ADOPTED this 24th day of October, 2023.

TASHA CERDA, Mayor

ATTEST:

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 **Ordinance No. 1856** 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 regular meeting of said City Council held on the **24th day of October 2023,** and that the same was so passed and adopted by the following roll call vote:

AYES: COUNCIL MEMBER TANAKA, MAYOR PRO TEM HENDERSON, COUNCIL MEMBERS FRANCIS AND LOVE, AND MAYOR CERDA

NOES: NONE

ABSENT: NONE

Becky Romero
City Clerk of the City of Gardena, California

(SEAL)