RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENDALE, CALIFORNIA, MAKING FINDINGS THAT CERTAIN PORTIONS OF ORDINANCE NO. 5997 COMPLIES WITH CALIFORNIA GOVERNMENT CODE SECTIONS 66314, *ET SEQ*., AND 66333, *ET SEQ*. DESPITE THE FINDINGS OF THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, WHICH FINDINGS ARE REQUIRED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 66326 PRIOR TO RE-ADOPTING THOSE PORTIONS OF ORDINANCE NO. 5997 WITHOUT CHANGES WITHIN ORDINANCE NO. _____

WHEREAS, the City of Glendale ("City") regulates accessory dwelling units pursuant to Title 30 of the Glendale Municipal Code, 1995 ("GMC"), including Chapter 30.34, as well as pursuant to the Glendale Building and Safety Code; and

WHEREAS, California Government Code ("CA Gov't Code") Sections 66314, *et seq*., allow local agencies to enact ordinances providing for the creation of accessory dwelling units and junior accessory dwelling units, and establish standards for ministerial review of such units; and

WHEREAS, the City adopted Housing Element 2021-2029 of the General Plan on February 1, 2022 and this Element was certified by the State Department of Housing and Community Development ("HCD") on February 27, 2023; and

WHEREAS, CA Gov't Code Section 66319 declares that accessory dwelling units in areas zoned to allow single-family or multi-family dwelling residential uses do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot; and

WHEREAS, the development of accessory dwelling units and junior accessory dwelling units will further local, regional and state goals for meeting the Regional Housing Needs Allocation set forth in the City's Housing Element 2021-2029; and

WHEREAS, the City's Housing Element 2021-2029, contains Policy 1.9 "Encourage flexibility in the Zoning Ordinance to promote a wide range of housing types"; Policy 1.3 "Promote the dispersion of affordable housing throughout the City while recognizing the potential for the integration of market-rate and affordable units within individual projects"; Policy 2.9 "Respect scale, historic continuity, and a sense of community in new residential development"; and, Policy 6.10 "encourage the use of sustainable building practices in residential developments" and permitted accessory dwelling units and junior accessory dwelling units implements these policies; and

WHEREAS, the Greener Glendale Plan for Community Activities was adopted by the City Council on March 12, 2012, for the purposes of promoting sustainable practices and establishing greenhouse gas reduction strategies in accordance with AB 32 (2006) and SB 375 (2008); and

WHEREAS, the Greener Glendale Plan for Community Activities Objective UD4 directs Glendale to continue to promote infill development to increase sustainability and livable environment and permitting accessory dwelling units and junior accessory dwelling units is consistent with that objective; and

WHEREAS, CA Gov't Code Section 66314 requires cities to permit accessory dwelling units and junior accessory dwelling units in areas zoned for single family and multifamily residential uses, but allows cities to designate areas where accessory dwelling units and junior accessory dwelling units may be permitted based on the adequacy of water and sewer services and the impact of accessory dwelling units and junior accessory dwelling units on traffic flow and public safety, as well as, allows cities to impose objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources; and

WHEREAS, on December 8, 2020, the City Council adopted Ordinance Nos. 5957 and 5958 amending permanent standards and processes for the review and approval of accessory dwelling units and junior accessory dwelling units, which Ordinance was codified in Section 30.34.080 of the GMC; and

WHEREAS, on November 15, 2022, the City Council adopted Ordinance No. 5997 incorporating state law amendments and minor modifications and clarifications related to accessory dwelling units and junior accessory dwelling units; and

WHEREAS, following HCD's review of Ordinance No. 5997, HCD sent the City a series of letters, commencing with a letter dated December 7, 2023, and including a June 19, 2024 "Notice of Violation" letter, with written findings alleging portions of Ordinance No. 5997 does not comply with CA Gov't Code Sections 66314, *et seq*. ("State ADU Law") and 66333, *et seq*. ("State JADU Law"), to which the City responded; and

WHEREAS, pursuant to CA Gov't Code Section 66326(b), the City must consider the findings made by HCD pursuant to its review of Ordinance No. 5997 and must either amend Ordinance No. 5997 to comply with State ADU Law, and/or re-adopt the Ordinance without changes, but with findings in a resolution that explains the reasons the City believes that the Ordinance complies with State ADU Law, despite HCD's findings; and

WHEREAS, on August 20, 2024, at a regularly scheduled City Council meeting, the City Council considered HCD's findings with respect to Ordinance No. 5997 and initiated amendments to certain portions of Title 30 of the GMC related to

development standards for accessory dwelling units and junior accessory dwelling units as to certain of said findings, and directed staff to re-adopt Ordinance No. 5997 without changes (with findings in a resolution explaining the reasons the City believes the Ordinance complies with State ADU Law despite HCD's findings) as to certain other portions of Ordinance No. 5997; and

WHEREAS, the City's Planning Commission considered and recommended approval of these amendments to Title 30 of the GMC, as well as readoption of portions of Ordinance No. 5997 with findings, at its meeting of October 16, 2024.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GLENDALE, CALIFORNIA, DOES HEREBY FIND AS FOLLOWS:

The City Council finds, determines, and declares that:

1. The above recitals are true and correct and are incorporated herein by reference as if set forth in full.

2. The City Council hereby makes the following findings pursuant to CA Gov't Code Section 66326(b) immediately prior to adoption of Ordinance No. _____ (amending portions of Ordinance No. 5997 and re-adopting portions of Ordinance No. 5997), which findings shall be incorporated by reference in Ordinance No. _____, after considering the findings made by HCD pursuant to its review of Ordinance No. 5997, in order to set forth reasons Ordinance No. 5997 complies with State ADU and JADU Law, despite HCD's findings contained in its December 7, 2023 letter to the City.

3. As to HCD's finding contained in its December 7, 2023 letter to the City regarding *JADUs and Zoning*, alleging that the City's allowance of JADUs in zones other than single family residential zones contained in Ordinance No. 5997 constitutes a violation of CA Gov't Code Section 66333 (formerly CA Gov't Section 65852.22(a)), the City Council finds as follows:

   a. State JADU Law states ". . . a local agency **may**, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones" (CA Gov't Code Section 66333 (emphasis added)), and nowhere in the text of State JADU Law does the law prohibit a local agency from allowing construction of a JADU in a zone other than single family residential zones. Moreover, State JADU Law does not prohibit a local agency from being more permissive in its local ordinance to permit and promote greater affordable housing opportunities.

   b. The purpose and intent of the JADU Law is to increase the supply of low-impact affordable housing within an existing single-family home (single-family use), as evidenced by the analysis of AB 2406 contained in the report of the Senate Committee On Transportation and Housing (Senator Jim Beall, Chair 2015-2016), authored by T. Thurmond (finding

that “[b]y passing AB 2406, we will remove barriers to development of JADUs that offer an abundant and viable source of low-cost, low-impact and high-benefit rental housing particularly in urban, costal zones, while making owning a home in the state more affordable, without the need for government subsidies” and finding JADUs offer “flexibility to have a second unit, while still allowing for single-family use.”)

c. In Ordinance No. 5997, GMC Section 30.34.080(C) defines a JADU as "a unit that is no more than 500 square feet in size and **contained entirely within a single-family residence**." (emphasis added). Indeed, GMC Section 30.34.080(F)(3) states that "[j]unior accessory dwelling units are prohibited on lots developed with existing multiple residential dwelling units." Similarly, GMC Section 30.34.080(D)(2) states that JADUs are permitted only on lots developed, or proposed to be developed, with one residential dwelling. Thus, Ordinance No. 5997 does not allow a multifamily dwelling unit (use as a multifamily) to construct a JADU. However, there are existing single family residences in all of the City's multifamily zones. Accordingly, the City's intent in allowing a JADU to be constructed on lots in non-single family zones that contain an existing single family residence was to be fair and equitable to those existing single-family homes, and to allow these single family residences the same opportunities to construct a JADU as those that exist in single family zones, thereby increasing the supply of housing units, and, in particular, affordable housing units.

d. Accordingly, Ordinance No. 5997’s allowance of construction of JADUs in zones other than single family residential zones, limited to existing single family uses, violates neither the plain language nor the intent of State JADU Law, and re-adoption of these provisions would thus not violate State JADU Law.

4. As to HCD’s finding contained in its December 7, 2023 letter to the City regarding *Accessory Living Quarters* alleging that the City’s requirement contained in Ordinance No. 5997, contained in GMC Section 30.34.080(D)(9), that a lot with one residential unit may have either an accessory dwelling unit or an accessory living quarter, but not both, constitutes a violation of CA Gov’t Code Section 66314(d)(3) (formerly CA Gov’t Code Section 65852.2(a)(1)), the City Council finds as follows:

a. Accessory living quarters are defined in GMC Section 30.070.020 as "living quarters within an accessory building for the sole use of persons employed on the premises or members of the household living in the main building. Such quarters have no cooking facilities and are not rented or otherwise used as a separate dwelling.” Accessory living quarters are not the same as ADUs, which are defined as residential dwelling units that provide complete independent living facilities for one or more persons and include permanent provisions for living, sleeping eating, cooking, and sanitation. CA Gov’t Code Section 66313(a).

b. State ADU Law provides that a local agency's ordinance must require an ADU to be "either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling, including detached garages." CA Gov't Code Section 66314(d)(3).

c. This section 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. Applicants are not forced to demolish their accessory living quarters (detached accessory structure limited to 500 square feet (see GMC § 30.11.020, Table A)) - they may make an election to convert it into a detached ADU. Ordinance No. 5997 does not require that all existing areas of the dwelling/accessory structure be converted to an ADU other than existing guest house, which is not prohibited by State ADU Law. Moreover, this provision of Ordinance No. 5997 does not preclude an ADU or JADU that complies with CA Gov't Code Section 66323(a).

d. The City's purpose in enacting this provision of Ordinance No. 5997 was to minimize the proliferation of detached accessory structures on lots, which further take away from landscaping, contribute to additional lot coverage and floor area ratio, and generally reduce open space, unless the accessory structure is used as an ADU. Rather than limiting ADU opportunities, this provision will encourage applicants to convert their accessory living quarters to an ADU, which will contribute to the creation of independent living facilities that can support renters (as opposed to accessory living quarters, which cannot be separately rented).

e. Accordingly, Ordinance No. 5997's requirement that a lot with one residential unit may have either an accessory dwelling unit or an accessory living quarter, but not both, violates neither the plain language nor the intent of State ADU Law, and re-adoption of these provisions would thus not violate State ADU Law.

5. As to HCD's finding contained in its December 7, 2023 letter to the City regarding *Unit Mixture* alleging that the City's limitation of construction of either (for single family use): 1. one converted ADU and a JADU, or, 2. one detached new construction ADU and a JADU; and, either (for multifamily use): 1. at least one and up to 25% of the existing multifamily dwelling units within portions of existing multifamily dwelling structures not used as livable space, or, 2. not more than 2 (or 8 under SB 1211) detached ADUs, contained in Ordinance No. 5997, contained in GMC Section

30.34.080(E)(4) & (F)(2), constitutes a violation of CA Gov't Code Section 66323(a) (formerly CA Gov't Section 65852.2(e)(1)) the City Council finds as follows:

a. HCD's finding that the City must allow a lot with a single family use to construct one detached new construction ADU, one converted ADU and a JADU, and must allow a lot with a multifamily use to construct detached ADUs and convert portions of its non-livable space (up to 25% of its existing units) is contrary to the plain language and legislative intent of State ADU Law.

b. State ADU Law states that a local agency must "ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following", after which it sets forth two distinct ADU/JADU combination options for single family use lots and ADU types for multifamily use lots. CA Gov't Code Section 66323(a). The word "any" contained in CA Gov't Code Section 66323(a) does not mean "any and all" (a phrase that is missing from State Law) of what follows.

c. The above-referenced interpretation of the word "any" in CA Gov't Code Section 66323(a) is a strained and illogical reading of this section that contradicts the overall ADU/JADU statutory scheme. Section 66323(a)'s language requires a local agency to ministerially approve an application "to create any of the following" and then delineates what is clearly two different and distinct alternate scenarios: 1) a "converted" ADU and a JADU meeting certain specifications; or 2) a detached new construction ADU and a JADU. CA Gov't Code Section 66323(a)(1-2). The legislature was clear that each type of ADU (converted or new construction) could also combine with a JADU (and only one JADU with each type of ADU). Under HCDs reading of the statute, requiring the allowance of any and all of the listed types of ADUs/JADUs on one lot, an applicant could create each of the two kinds of ADUs and a JADU for each ADU (resulting in 2 ADUs and 2 JADUs). However, a lot cannot have more than one JADU pursuant to Government Code section 66333(a). Accordingly, HCDs construction of the statutory language is not in harmony with section 66333(a), and thus violates the rules of statutory construction. See Skidgel v. California Unemployment Ins. Appeals Bd., 12 Cal. 5th 1, 14 (20 21) (holding court must "construe the words in question in context, keeping in mind the statutes' nature and obvious purposes. . .. [and] harmonize the various parts of the enactments by considering them in the context of

the statutory [framework] as a whole"). The same statutory construction also applies to Section 66323(a)(3-4) in that an applicant must choose either detached ADUs or conversion of non-livable existing space up to 25% of the existing units.

d. The legislative history of the enactment of Section 66323(a) also contradicts HCD's interpretation, as described above. Both AB 68 and AB 881, which amended State ADU law in 2019 to include the current language of Section 66323(a), were enacted with multiple legislative reports evidencing that the legislature intended to allow a maximum of one ADU (either converted attached or new construction detached) and one JADU in single-family lots. For example, with respect to AB 68, the April 3, 2019 report titled "Assembly Committee on Housing and Community Development", on page 4 under the heading "Relaxing ADU Standards", states: "[t]his bill makes major changes to the ADU statute to facilitate the development of more ADUs ... , including the following: Increases the number of ADUs allowed to be constructed per lot by potentially allowing two ADUs on lots with single-family homes, and multiple ADUs on lots with multi-family dwellings." Moreover, the April 24, 20219 report titled "Assembly Committee on Appropriations (Lorena Gonzalez, Chair AB 68 (Ting) – As Amended April 3, 2019)" on page 1 states that the bill amends the law by allowing "an ADU and a JADU on one lot, under specified conditions". Similar language is contained in the September 9, 2019 report titled "Concurrence in Senate Amendments", at page 2 ("This bill ... [i]ncreases the number of ADUs allowed to be constructed per lot by potentially allowing two ADUs on lots with single-family homes, and multiple ADUs on lots with multi-family dwellings.") Furthermore, the April 3, 2019 titled "Assembly Third Reading" on page 1 references two scenarios for a single family property: 1. a converted ADU and a JADU, or 2. a detached ADU and JADU. (Emphasis added). Additionally, under "comments" on page 5 of the July 10, 2019 report of the Senate Committee on Governance and Finance the following statement appears, describing the law: "AB 68 significantly expands the types of ADUs that cities and counties must permit regardless of local rules to include up to three units on a single-family lot: the primary dwelling, an ADU, and a JADU." (Emphasis added). Moreover, with respect to AB 881, the Senate Floor Analysis dated September 1, 2019 contains a table on page 5 that delineates that each single family lot may only have one JADU and one ADU.

e. Accordingly, Ordinance No. 5997's requirement regarding unit mixture, violates neither the plain language nor the intent of State ADU Law, and re-adoption of these provisions would thus not violate State ADU Law.

6. As to HCD's finding contained in its December 7, 2023 letter to the City regarding *Stories* alleging that the City's prohibition of new construction ADUs from being located directly above a detached garage contained in Ordinance No. 5997, contained in GMC Section 30.34.080(E)(7) & (F)(6), constitutes a violation of CA Gov't Code Section 66314(d)(3) (formerly CA Gov't Code Section 65852.2(a)(1)), the City Council finds as follows:

a. State ADU Law provides that a local agency's ordinance must require an ADU to be "either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling, including detached garages." CA Gov't Code Section 66314(d)(3).

b. The plain language of Section 66314(d)(3) mandates 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. The City allows all of these scenarios in Ordinance No. 5997. Nothing in the language of Section 66314(d)(3) mandates that the City specifically allow an ADU to be newly constructed on top of a detached garage, and thus, the referenced section is in compliance with State Law.

c. Accordingly, Ordinance No. 5997's prohibition of new construction ADUs from being located directly above a detached garage, violates neither the plain language nor the intent of State ADU Law, and re-adoption of these provisions would thus not violate State ADU Law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENDALE:

SECTION 1. The above recitals and findings are true and correct and are hereby incorporated as if fully set forth.

SECTION 2. The above recitals and findings, setting forth the reasons that Ordinance No. 5997 complies with State ADU Law despite HCD's findings, are hereby adopted pursuant to CA Gov't Code Section 66326(b), allowing the City Council to re-adopt portions of Ordinance No. 5997 related to said findings without changes.

SECTION 3. Pursuant to the California Environmental Quality Act (CEQA) the City Council hereby finds that this Resolution is exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and California Code of Regulations, Title 14, Chapter 3, Section 15282(h) because this Resolution makes findings to readopt an ordinance to implement the provisions of former Government Code Sections 65852.2 and 65852.22 (now codified in Article 2 [commencing with Section 66314] and Article 3 [commencing with Section 66333] of Chapter 13 of Division 1 of Title 7 of, the Government Code), second units in a single-family or multifamily residential zone. Moreover, this Resolution is exempt from further environmental review under CEQA pursuant to Title14 of the California Code of Regulations Section 15060(c)(1), as it makes findings to readopt an ordinance to implement provisions of former Government Code Sections 65852.2 and 65852.22 (now codified in Article 2 [commencing with Section 66314] and Article 3 [commencing with Section 66333] of Chapter 13 of Division 1 of Title 7 of, the Government Code), which require ministerial review and approval of accessory dwelling units and junior accessory dwelling units and therefore, does not involve the exercise of discretionary powers by the City.

Adopted this _____day of _____ 2024,

_____
Mayor

ATTEST:

_____
City Clerk

STATE OF CALIFORNIA)
) SS.
COUNTY OF LOS ANGELES)

I, DR. SUZIE ABAJIAN, City Clerk of the City of Glendale, hereby certify that the foregoing Ordinance was adopted by the Council of the City of Glendale, California, at a regular meeting held on the_____ day of_____, 2024, and that the same was adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

_____
City Clerk