

Leisure Town Home Association

Accessory Dwelling Unit Rules

Adopted Mar. 16, 2021

Introduction to Accessory Dwelling Unit Rules

On January 1, 2020, Assembly Bill 670 became law. This law limits Leisure Town Home Association (the "Association") from placing unreasonable restrictions on the construction and use of accessory dwelling units and junior accessory dwelling units (collectively "ADU"). Leisure Town is a planned development comprised of residential lots (the "Development") and, as such, adopts these rules in compliance with the law.

These rules are established to provide guidance to the Association, its Board of Directors (the "Board"), the Architectural Committee ("AC"), and all Owners/Members regarding the approval process for ADUs and how to ensure compliance with the new law.

(a) Text of New Law. Assembly Bill 670, codified as Civil Code section 4751, provides as follows:

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

(b) Enforceability of CC&Rs and Governing Documents. Except for the modifications and/or additions set forth herein, the *Amended and Restated Declaration of Covenants, Conditions and Restrictions for Leisure Town* (the "CC&Rs" or "Declaration") remain in full force and effect. Unless expressly stated, nothing in these rules is intended to contradict or alter the provisions or restrictions of the CC&Rs. In accordance with Civil Code section 4205(d), in the event of any inconsistency between these rules and the CC&Rs, the CC&Rs shall control unless the inconsistent effect is mandated by law.

(c) Relationship to Local Ordinances. In response to changes in California law affecting the ability of local governments to regulate ADUs, the City of Vacaville (the "City") has revised its ordinances regulating ADUs. In addition to complying with these rules and all applicable provisions of the CC&Rs, Owners desiring to construct ADUs on their Lots shall also comply with all government requirements. However, the AC/Board has no obligation to declare that an ADU is in compliance with any government requirement, as set forth in Section 8.18 of the CC&Rs, nor can the AC/Board independently declare that an ADU is in compliance with any government requirement. To the extent that any government ordinance, building code, or regulation requires a more restrictive standard than that found in these rules or the CC&Rs, the government standards shall prevail. To the extent that the local ordinance is less restrictive than these rules or the CC&Rs, these rules and the CC&Rs shall prevail, so long as the

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restrictions contained in these rules or the CC&Rs are not an unreasonable restriction in violation of Civil Code section 4751.

The Association is under no obligation to enforce any ordinance, statute, or regulation, but may use relevant ordinances, statutes, and regulations to help determine whether an ADU interferes with the reasonable use and/or enjoyment of any other Owner and their property.

(d) Terms and Definitions. As used herein, capitalized terms shall have the same meanings as defined herein, or as set forth in the CC&Rs.

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1. Definitions.

(a) ADU Generally. Effective January 1, 2020, an accessory dwelling unit ("ADU") is defined in Government Code section 65852.2 as:

[A]n attached or a detached residential dwelling unit that 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 on the same parcel as the single-family or multifamily dwelling is or will be situated.

(b) Junior ADU. Effective January 1, 2020, a junior ADU is defined in Government Code section 65852.22 as:

[A] unit that is no more than 500 square feet in size and contained entirely within an existing single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(c) ADUs within the Development. Within the Development, any of the following improvements may be, or may be converted into, an ADU: a garage, a separate structure, a cottage, a portion of the interior of a Dwelling, or an addition to a Dwelling.

(d) Kitchen. Both ADUs and junior ADUs must have a kitchen area separate from the primary Dwelling. A kitchen is defined as a cooking facility with appliances, a food preparation counter, and storage cabinets of reasonable size for the ADU.

(e) Bathroom. An ADU must have a separate bathroom or sanitation facility. A junior ADU may share sanitation facilities with the primary Dwelling. A bathroom is defined as a separate room that contains a sink, a bathtub and/or shower, and a toilet.

2. Obligations of Owners. Any rental of an ADU must be evidenced by a written lease or rental agreement which shall provide that the tenancy is subject to the terms of the Governing Documents, with a particular emphasis on compliance with Article 7 ("Renting and Leasing") of the CC&Rs and its reporting requirements, and failure to comply with the same shall constitute a default and entitle the Owner to terminate the lease. The Owner shall provide all tenants with a copy of the Articles, Bylaws, CC&Rs, and all other Governing Documents. If a junior ADU is created on a Lot, the Owner of the Lot shall reside in either the primary Dwelling or the junior ADU if less than the entire lot is subject to a lease.

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3. Approval and Design of ADUs.

(a) **City Requirements.** No ADU shall be constructed or maintained within the Development unless the same complies with all City codes and standards, and has been issued all necessary permits and approvals from all required government entities, including a building permit if required.

(b) **Design of ADUs.** When a proposed ADU is submitted to the AC/Board for design review, the AC/Board shall grant the requested approval if the AC/Board makes the following findings:

- (1) The submitted plans and specifications conform to the CC&Rs and other applicable Governing Documents;
- (2) The proposed ADU will be in harmony with the external appearance of other structures, landscaping within the Development, and location of surrounding structures and topography; and
- (3) The proposed ADU will otherwise be consistent with the architectural and aesthetic standards prevailing within Leisure Town and the overall plan and scheme of development therein.

The AC/Board shall consider whether the ADU—as a result of its appearance, location, or anticipated use—will interfere with the reasonable enjoyment of any other Owners of their Lot(s) or the Common Areas, but shall not deny approval of an ADU solely on this basis.

(c) **Application Fee; Right to Professional Consultation.** At the time the application is submitted, an Owner shall pay the applicable fee, if any, for reviewing an application for an ADU, as set by the Association in the application form, which may be updated from time to time. The AC/Board reserves the right to require, at the Owner's expense, the consultation and advice of relevant professionals including, but not limited to, architects and/or engineers, prior to approving a proposed ADU. The Owner shall be notified of this consultation fee before it is charged if it is a condition for the review and consideration of an application for an ADU. The application shall not be deemed "submitted" and "complete" until the fee is paid. If the fee for professional consultation is not paid, the application will be deemed denied.

(d) **Building Height.** The Association may enforce a height restriction for aesthetic harmony purposes on any addition to a Dwelling, so long as such enforcement does not unreasonably restrict the construction or use of an ADU on the Lot and does not violate allowable height regulations under Government Code sections 65852.2 and 65852.22.

(e) **Setback Requirements.** All ADUs, whether free-standing or within the existing structure(s) on a Lot, shall be constructed within appropriate setback lines as shall be established by the City or Government Code sections 65852.2 and 65852.22, whichever imposes the largest setback requirement.

(f) **Garage Doors.** If a garage is converted into an ADU, the garage door(s) must retain its exterior appearance in compliance with the rules and CC&Rs; an alternate exterior entrance must be constructed on the side or rear of the structure to facilitate ingress/egress to the ADU. Garage door windows, if any currently exist, must have some type of white or neutral colored covering behind them to block the view of any interior wall structure and the dwelling space. Section 5.16 of the CC&Rs, as it relates to prohibiting conversion of a garage into living quarters and limited to parking vehicles, shall be

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null and void once an Owner is approved to convert their garage into an ADU that complies with these rules and receives the necessary approvals and permits from the City.

(g) **Separate Structures.** The Association may restrict and regulate the construction of separate structures on a Lot so long as such enforcement does not unreasonably restrict the construction or use of an ADU on a Lot. In compliance with Section 8.18 of the CC&Rs, the AC/Board shall not approve the construction of a separate structure for residential purposes relating to being an ADU until the Owner receives all necessary and applicable approvals and permits from the City.

(h) **Square Footage.** Minimum and maximum square footage of ADUs, whether free-standing or attached, shall be in conformity with the City ordinances or Government Code sections 65852.2 or 65852.22, whichever is more restrictive.

(i) **Landscaping.** The rules and design guidelines regarding landscaping shall apply to all Lots regardless of any ADU constructed thereon or within a Dwelling.

4. Use Restrictions.

(a) **Parking.** The Association may enforce the restrictions related to parking of vehicles set forth in Section 5.20 of the CC&Rs, so long as such enforcement does not unreasonably restrict the construction or use of an ADU on the Lot whereon the Owners or lessors of said vehicles reside.

(b) **Minimum Lease Term.** In no event shall an ADU be leased or rented for a term less than thirty (30) days. No ADU shall be leased for hotel-like or transient purposes.

(c) **Permitted Residents.** In compliance with Article 7 of the CC&Rs, the leasing of an ADU is subject to the requirements of Article 6 of the CC&Rs. For purposes of compliance with Article 7 of the CC&Rs, an ADU shall be considered a "Dwelling." Renting an ADU in a manner that violates Article 7 of the CC&Rs shall be a violation of the CC&Rs and is subject to the enforcement mechanisms available to the Association to ensure compliance with the CC&Rs.

(d) **Mailboxes and Street Addresses.** An ADU may include a separate mailbox or street address from the principal Dwelling on the Lot as required by any local, state, or federal authorities, including the United States Postal Service, subject to AC/Board approval of the design and location of the mailbox.

CERTIFICATE OF ADOPTION

I hereby certify that I am the Secretary of the Association and that the foregoing rules are a true copy of the rules approved by the Board at its meeting held on March 16, 2021, at which a quorum of the Directors was present. I further certify that the foregoing rules are in full force and effect; that the same have not been rescinded, nor has it been amended or modified.

Dated: March 16, 2021

By: _____

[signature]

Jean F. McLain, Secretary
[print name]