

An aerial satellite-style map of the Donner Lake area in California. The map shows a dense residential area with many houses, interspersed with green spaces and golf courses. Major roads like Northwoods Blvd and Ski View Loop are visible. Several points of interest are marked with colored pins, including 'The Clachaig', 'Survivelt2', 'Ski View loop Cabin Rental', 'Exquisite Mountain Home', 'Mountain Chalet', 'Truckee Fire Protection District Station 94', 'Spikes Place', 'Z Market Place', 'Tahoe Donner Golf Course', 'Tahoe Donner Trout Creek Recreation Center', and 'Tahoe Donner Driving Range'. The text 'New Accessory Dwelling Unit (ADU) Law: Impact on Tahoe Donner' is overlaid in large white font in the center of the map. Below the title, the date 'October 2019' is also overlaid in white font.

New Accessory Dwelling Unit (ADU) Law: Impact on Tahoe Donner

October 2019

What is an Accessory Dwelling Unit (ADU)

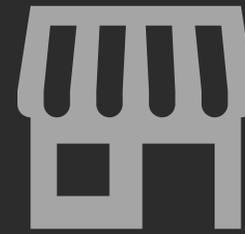


An Accessory Dwelling Unit, or “ADU” is

A secondary residential unit built on a lot with a single-family house.

With its own, separate entrance, it can be attached to the primary residence, built over a detached garage or built as a separate unit.

ADUs normally must be served by the same driveway as the primary residence.



A “junior accessory dwelling unit”

A unit located entirely within the existing walls of the single-family residence with a separate entrance. An informal term sometimes used for a “junior ADU” is a “granny” or “in-law” unit, but an ADU is a much broader concept.

California State Law related to ADUs

In 2017, in an effort to provide more affordable, local housing, the State revised Gov. Code section 65852.2 relating to ADUs.

- ✓ Required cities and towns allow ADUs be built in many areas zoned for single-family housing.
- ✓ Provided upper limits on unit size, lot size, setbacks and other aspects of ADUs, meaning that in many instances, properties were not suitable and ADUs could not be built.

The statute also allowed the towns to enact more stringent regulations that:

“Include, but are not limited to, parking, height, setback, lot coverage, architectural review, [and] maximum size of a unit.”

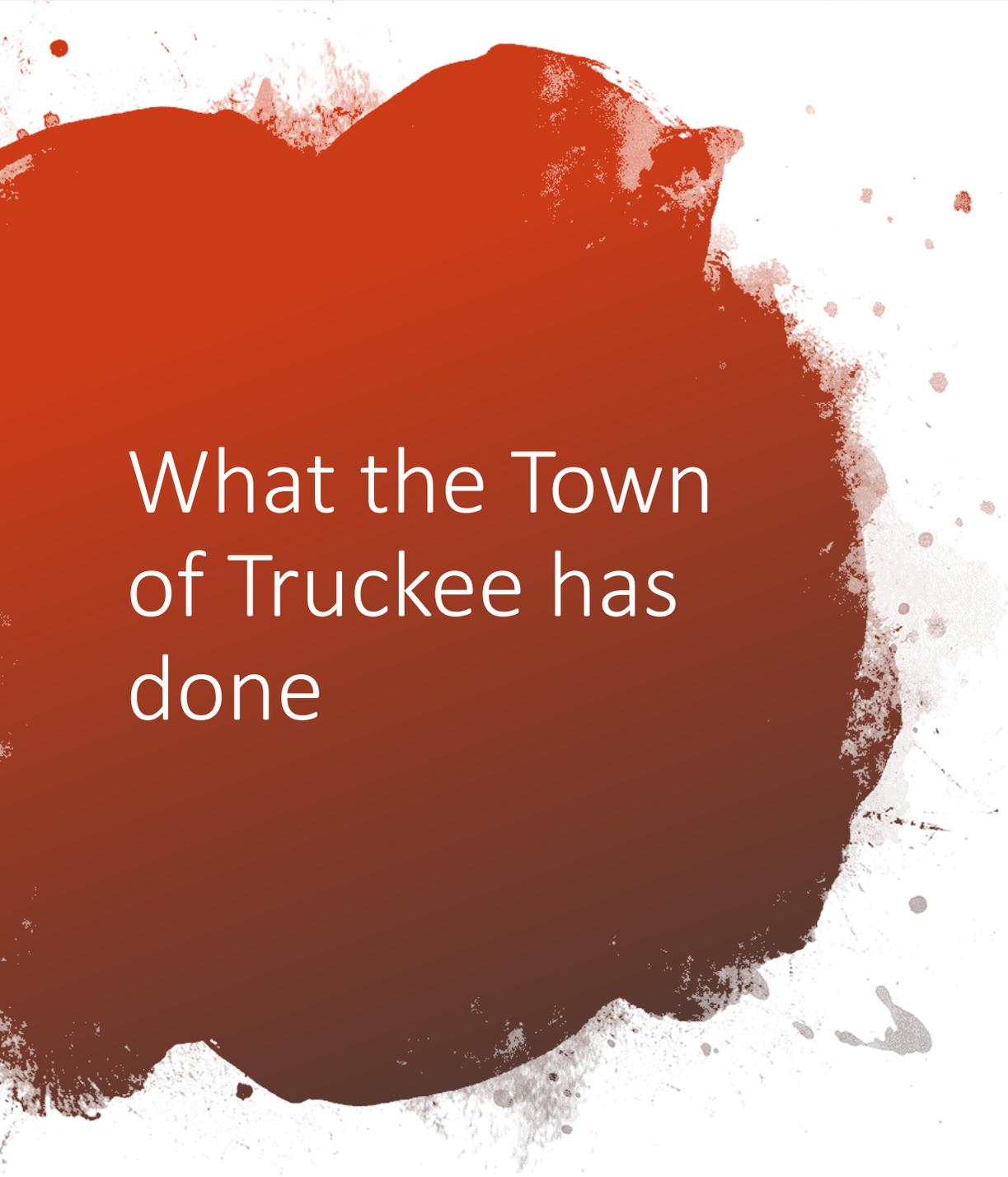
The 2017 State law did not apply to HOAs

How Cities and Towns Responded

Towns and cities adopted regulations on size, parking, coverage, setbacks, appearance and all other matters related to construction.

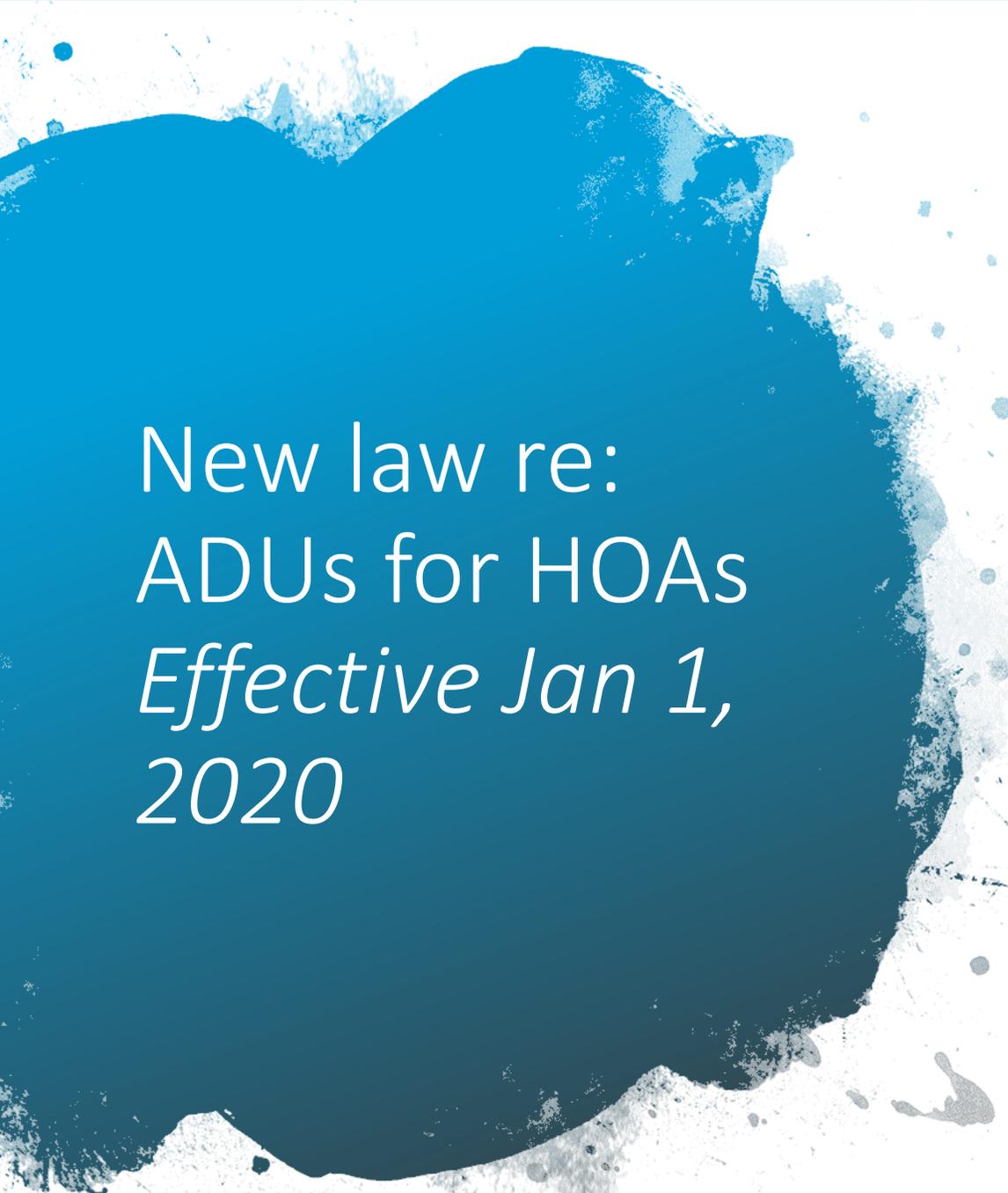
Many cities adopted size restrictions in the 500 to 800 square foot range and required compliance with their own existing coverage limitations and set-back requirements.

In order to ensure that ADUs were used to address long-term, affordable housing needs, many towns or counties prohibit ADUs from being used as short-term rentals, and require recorded deed restrictions to reflect that prohibition.



What the Town of Truckee has done

- In response to the State law, Truckee adopted an ADU law that:
 - Limited ADUs to 500 to 800 square feet
 - Limited Junior ADUs to 500 square feet.
 - Required the same side and rear setbacks applicable to the primary dwelling.
 - Contained many other terms governing ADUs



New law re:
ADUs for HOAs
*Effective Jan 1,
2020*

- The State recently passed AB 670, to further address the need for affordable housing:
 - ✓ Over-rides prohibitions on ADUs in homeowners' associations governing documents,
 - ✓ Incorporates all the restrictions on ADUs in Gov. Code 65852.2 and 65852.22,
 - ✓ Allows a homeowners' association to enact additional, reasonable regulations.
 - ✓ ADUs are not to be used for short-term (30 days or less) rentals

Implications and rules for Tahoe-Donner HOA

TD was designed as a single-family residential area, and the peaceful enjoyment of their properties is an important value under our CC&Rs.

Accordingly, it is suggested that Rules designed to protect the peace and quiet, and the look and feel of our residences, while complying with the law and its intended purpose, be enacted by the Board.

These rules are particularly important in this mountainous community, where many lots are of limited size and where dealing with fire danger and heavy snowfalls are key elements.

Suggested Rules for Consideration

1. ADUs constructed in Tahoe Donner may not be used for short-term rentals. Any permit to build an ADU will be conditioned on the recording by the owner of a deed restriction reflecting that prohibition.
2. Any ADU must comply with Tahoe Donner's setback and coverage requirements, and otherwise comply with existing Tahoe Donner architectural standards. The Architectural Standards Committee may make rules as needed to ensure compliance with the law and preservation of Tahoe Donner standards and appearance, including preservation of privacy, quiet and peaceful enjoyment of neighbors.
3. Junior ADUs are limited in size to 500 square feet. Other ADUs shall be limited in size to 800 square feet.
4. Off-street parking of one spot for a studio ADU and one spot per bedroom must be provided and used by any tenants. The number of cars permitted for ADU tenants shall not exceed the available off-street parking spaces after first accommodating vehicles associated with the owner and residents of the primary residence. (On-street parking by tenants is prohibited in the winter months and, since it must be available anyway, should be used year-around to preserve peace and enjoyment of Tahoe Donner residents.)

Suggested Rules for Consideration (continued)

5. The existing CC&Rs require that any owner provide a copy of Tahoe Donner rules to any tenant, and that the owner must ensure that the tenant complies with those rules. To enforce these requirements, a term should be included in any long-term lease whereby the tenant acknowledges receipt of the rules and his or her obligation to abide by the rules and parking limitations.

6. Some homes in TD have Junior ADUs that were constructed in violation of TD CC&Rs. These homes will be given 60 days to obtain a TD permit and comply with TD ADU rules, including the recording of a deed restriction, or be subject to enforcement.

7. Ensuring compliance with ADU rules will likely require significant compliance resources. A reasonable fee to cover these costs should be established for those who obtain a permit to build an ADU.

Other considerations impacting ADUs

- Under the new law, only one ADU per single-family lot is permitted.
- The Architectural Standards Committee may adopt a rule requiring notice to neighbors when a permit to construct an ADU is submitted, so that the neighbors may have the opportunity to request changes to ensure their continued enjoyment of their homes.
- The ASO will also need to address potential changes next year to Gov. Code 65852.2 and 65852.22 that may impact some of the requirements for ADUs.
- Under the CC&Rs, only the owner and family members are entitled to member cards to utilize the private amenities. Accordingly, long-term ADU tenants would likely not be entitled to utilize TD private amenities, unless other rules are enacted.
- The existing CC&Rs require that an owner provide the TD office with the name and contact information for any long-term tenant. Other information, such as the license number for tenant cars or the term of the lease may be useful.
- It is suggested that the Covenants and/or Architectural Standards Committees address the need for ensuring compliance with the ADU regulations.

APPENDIX

State Law (AB 670)

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature in enacting this act to encourage the construction of affordable accessory dwelling units and junior accessory dwelling units that are owner-occupied and that are used for rentals of terms longer than 30 days.

SEC. 2. Section 4751 is added to the Civil Code, to read:

4751. (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.

Sample Deed Restriction

TO BE RECORDED and when recorded mail to:

City of Alameda Planning Division
Community Development Department
2263 Santa Clara Avenue, Room 190
Alameda, CA 94501

Space Above For Recorder's Use Only

INSTRUCTIONS: After you have received ADU Clearance from the City of Alameda, complete and notarize this form and take it to the Alameda County Clerk-Recorder at 1106 Madison St., Rm. 101, Oakland, CA 94607. Remember to attach a copy of the property's Legal Description, which may be found with the Property Deed. One (1) copy of the fully executed form must be returned to the City of Alameda at the address above. Once recorded, the County may take several weeks to forward a copy to the City, so it is recommended you obtain an extra copy to submit directly to the City in order to expedite processing of your Building Permit. For further information on the Clerk-Recorder's office, call 510-272-6362, or visit www.acgov.org/auditor/clerk



DECLARATION OF RESTRICTIONS PERTAINING TO ACCESSORY DWELLING UNIT (DEED RESTRICTION)

Property Owner(s): _____ ("Property Owner")

Site Address: _____, Alameda, CA

APN _____ (the "Property").

Whereas, Property Owner is the present owner of certain real property located in the City of Alameda, State of California, more particularly described in the legal description attached as Exhibit A; and

Whereas, the term "Property Owner" shall, if applicable, include heirs named within a currently valid declaration of trust designating ownership of subject property, and shall, if applicable, include principals of a corporation; and

Whereas, Property Owner and/ or persons acting on behalf of Property Owner propose to construct an accessory dwelling unit or convert all or part of an existing structure to an accessory dwelling unit; and

Whereas, the City of Alameda conditions the construction and/ or conversion, and occupancy of the accessory dwelling unit, and the Property Owner agrees as follows:

- 1) The accessory dwelling unit shall not be rented for a period of less than thirty (30) days.

- 2) The installation of more than one kitchen per dwelling unit without prior approval by the City of Alameda is prohibited. "Kitchen" shall mean any room or area within a dwelling unit or living quarters to be used for storing, cooking or preparing of food, which may include a sink, refrigeration, or installed cooking facilities such as a 220 volt electrical service or a gas line.
- 3) Pursuant to Government Code section 65852.2 (Senate Bill No. 229) and section 30-5.18(e) of the Alameda Municipal Code (AMC), a specific condition of the City of Alameda's approval of the accessory dwelling unit is that it shall not be sold separately from the primary residence, although it may be rented.

This instrument is the deed restriction recorded in compliance with Section 30-5.18 of the Zoning Ordinance of the City of Alameda, which generally addresses development prohibitions, owner occupancy requirements, parking requirements, and design requirements. The current restrictions and regulations may be obtained from the City of Alameda Planning Division.

- 1) Agreement to Comply with Restrictions: In satisfaction of the above-referenced condition, Property Owner hereby accepts the obligation to provide written notice to all future, potential buyers of all conditions which apply to the accessory dwelling unit on this property.
- 2) Rights Appurtenant: This declaration is intended to be a covenant running with the land and shall bind and inure to the benefit of the heirs, personal representatives, successors and assigns of each present and future owner of the real property described herein.
- 3) This deed restriction may not be amended, released, terminated, or removed from the Property without the prior written consent of the City of Alameda.
- 4) This deed restriction shall be recorded in the Alameda County Clerk Recorder's office.

Property Owner declares under penalty of perjury that these restrictions will be adhered to and he (she) (they) has executed this Declaration of Restriction on Accessory Dwelling Unit.

OWNER(S) OF RECORD:

PRINT NAME: _____ PRINT NAME: _____

SIGNATURE: _____ SIGNATURE: _____

DATED: _____ DATED: _____

[ATTACH NOTARY CERTIFICATES]