



November 16, 2019

DECISION PAPER

Issue:

Proposed new standards rules were developed to allow and regulate the construction and use of accessory dwelling units and junior accessory dwelling units in Tahoe Donner, while maintaining owners' rights under the Covenants and Restrictions to peace, quiet, and the look and feel of Tahoe Donner residences and the single-family nature of the community.

As required by the Covenants and Restrictions Article III Section 7(b), proposed new rules must go out for 45-day member notification prior to board consideration and approval.

Background:

Pursuant to Tahoe Donner Covenants and Restrictions Article III Section 7 "the board may, from time to time, propose, enact, amend rules and regulations of general application to the Owners of Separate Interests within the Properties." Article III Section 7 (b) states, "...no association rule shall be adopted until the proposed rule or amendment thereof has been published to the members at least 45 days prior to the date when the board is scheduled to act on the proposal..."

This Decision Paper addresses the need for rules in response to recent legislation impacting homeowners' associations in California. Assembly Bill 670 was passed to address the need for affordable housing by requiring homeowners' associations to allow the construction of accessory dwelling units and junior accessory dwelling units with appropriate restrictions, to be used for long-term housing. The bill incorporates certain restrictions on unit size, lot size, setbacks and other aspects, and authorizes homeowners' associations to adopt further "reasonable restrictions" on the construction of such units, which can include size, parking, height, setback, lot coverage and architectural review standards.

In 2017, in an effort to provide more affordable local housing, the State revised Gov. Code sections 65852.2 to allow the construction of accessory dwelling units in many areas otherwise zoned for single-family use only. This law applies only to a "local agency" i.e. to a "city, county, or city and county..." Thus, this law does not apply to homeowners' associations. The 2017 law provided upper limits on unit size, lot size, setbacks and other aspects of construction, and allowed cities and counties to enact more stringent regulations "include, but are not limited to, parking, height, setback, lot coverage, architectural review, [and] maximum size of a unit."





Following the 2017 legislation, the Town of Truckee adopted Ordinance 18.58.230 to govern the construction and use of secondary residential units which includes accessory dwelling units and junior accessory dwelling units. Permits issued by Truckee will presumably require compliance with this new ordinance, as well as ordinances and regulations applicable to short term rentals, and the Town's obligation to provide long term affordable housing stock.

On August 30, 2019 Governor Newsom signed into law Assembly Bill 670 (AB670) which becomes effective January 1, 2020. The stated intent of this new law is 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." As noted above, as of January 1, 2020, these units are no longer prohibited in our community. However, in accordance with this new law, our community can enforce existing restrictions and rules, and adopt new rules, in order to implement the intent of this law while at the same time ensuring that any adverse impacts on our community are minimized.

Subsequent an informative presentation at the October 19, 2019 board of directors meeting (see <https://www.tahoedonner.com/members/governance/board-meetings/meeting-documents/2019-2020/> for further background information), the board of directors directed staff and the Architectural Standards Committee to draft rules pertaining to the construction and use of accessory dwelling units using the suggested rules presented at the meeting. In addition to drafting new rules, staff is suggesting creating a member tool kit available online and included in accessory dwelling unit permit applications to include existing Tahoe Donner rules that apply will be listed for information purposes for those constructing ADUs, including but not limited to:

- the requirement that owners provide the rules and ensure compliance by the tenants,
- the name and contact information for the long-term tenants must be provided to the office
- tenants will not have the right to use the private amenities unless the owner relinquishes their rights to use the amenities

Since the October board meeting, draft rules were developed, reviewed and discussed by staff and the Architectural Standards Committee. The committee felt strongly that two options regarding short-term rental restrictions should be presented to the board for review and decision for one option to move forward in the 45-day notice. Generally, the majority of the Architectural Standards Committee is in recommendation of Short-Term Rental of an ADU or JADU Option 2.





The Covenants Committee has not had the opportunity to review the proposed parking rule due to the timing of the rule drafting window relative to their November committee meeting. Management proposes to have the Covenants Committee review the draft parking rule at their December meeting in order to provide any feedback at the December 15 board of directors ahead of the 45-day notification publication deadline.

A copy of the draft proposed rules is attached. These draft rules and the 45-day notice were provided to Tahoe Donner legal counsel for review and advisement to the board.

Among other things, the new rules are intended to:

- Express the intent of the legislation;
- Define the regulations on construction and use of accessory dwelling units in Tahoe Donner;
- Protect the character of the community; and
- Encourage affordable housing as one way to address the lack of affordable housing in the Truckee community.

The new proposed rules would:

- Provide definitions for an accessory dwelling unit and a junior accessory dwelling unit, and applicable regulations and restrictions;
- Provide guidance to members and the TDA as to application of the Governing Documents to these units, including size, parking, and setback requirements;
- Clarify the application process for permitting for accessory dwelling units (detached and attached) and junior accessory dwelling units will fall under existing permit categories.
- Expressly permit members to construct or use accessory dwelling units as long as they are rented for terms longer than 30 days.

The permitting for an accessory dwelling unit either attached, detached or as a junior accessory dwelling unit is proposed to fall under existing permitting categories and fees. Depending on the project scope of the accessory dwelling or junior accessory dwelling, the project permit application will fall under one of the following categories:

Major Projects: this includes new houses, multiples, commercial buildings, additions (over 500 SQ FT), garages with addition. All these projects require neighbor notification. *Detached and attached accessory dwelling units (over 500 SQ FT)*





Minor Projects with Neighbor Notification: Garages, additions (under 500 SQFT), decks, sheds, auxiliary structures, variances, miscellaneous including fences. *Detached and attached accessory dwelling units (under 500 SQ FT)*

Minor Projects without Neighbor Notification: changes to existing including but not limited to, driveway parking pads, small deck extensions, window size changes, patio pavers, walkways, etc. *Detached and attached accessory dwelling, and junior accessory dwelling units with "changes to existing" under this permit category, and junior accessory dwelling units with no changes to existing exterior.*

Options:

- A. Approve proposed new rules to go out for 45-day member notification as drafted including Short Term Rental of an ADU or JADU Option 1.
- B. Approve proposed new rules to go out for 45-day member notification as drafted including Short Term Rental of an ADU or JADU Option 2.
- C. Approve proposed new rules to go out for 45-day member notification as drafted with modification in.
- D. Do not approve going out for 45-day member notification.

Recommendation:

The Architectural Standards Committee is requesting the Board of Directors consider approving for 45-day member notification Option B: Approve proposed new rules to go out for 45-day member notification as drafted including Short Term Rental of an ADU or JADU Option 2.

If approved for member notification, the proposed new rules will go out to the 45-day member notification in the January Tahoe Donner News followed with the Board of Directors member comments consideration at the January 25, 2020 meeting, and discussion and consideration for action at the February 22, 2020 Board of Directors meeting.

Prepared By: Architectural Standards Committee and Annie Rosenfeld, Director of Risk Management and Real Property

General Manager Approval to put on Agenda: _____ Date: _____

