



February 14, 2020

DECISION PAPER

Action:

The Board of Directors will consider adopting the proposed new rules for Accessory Dwelling Units and Junior Accessory Dwelling Units. The 45-day notice was issued in the January 2020 TD News. The Board may take action to reject, modify or adopt the proposed rules.

Background:

Pursuant to Tahoe Donner Covenants and Restrictions the board may consider adoption of new and amended rules following requisite member notification and comment period.

Article II, Section 3

(a)...The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. The specific powers of the Association and the limitations thereon shall be as set forth in Article IX of the Bylaws.

Article III, Section 7

(b) Adoption and Amendment of Rules. Association Rules may be adopted or amended from time to time by majority vote of the Board in accordance with this subparagraph (b). Except in the case of: (i) rules or regulations adopted to respond to an emergency which threatens the health or safety of the residents or immediate damage to or destruction of any Common Area...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. During the 45-day comment period at least one Board or community meeting shall be held at which the proposed rule is an agenda item.

Following discussion, review and modifications to drafted proposed new rules for Accessory Dwelling Units and Junior Accessory Dwelling Units at the November 2019 board of directors meeting, the Board of Directors approved the publication of the





proposed new rules for Accessory Dwelling Units and Junior Accessory Dwelling Units for 45-day member notification.

The proposed new rules for Accessory Dwelling Units and Junior Accessory Dwelling Unit 45-day Notice was published in the January Tahoe Donner News and is attached for reference. The notice was posted on the 45-day notice webpage on www.tahoedonner.com as well. Separate memos are included which includes submitted member comments received between January 1 and February 14, 2020.

The Board of Directors heard member comment relating to the 45-day notice at the January 31, 2020 board of directors meeting agenda item 7: Proposed New Rules for Accessory Dwelling Units and Junior Accessory Dwelling Unit.

At the February 12, 2020 Architectural Standards Committee meeting, the committee reviewed the comments received from the membership. The committee discussed concerns with the requirement to deed restrict the property with ADU or JADU preventing or deterring existing ADUs and JADUs to register.

Additionally, the committee discussed the potential consequences of making owners complete a deed restriction on their property when California state law has seen further changes to the ADU rules and is anticipating more changes. Following discussion, a majority of the committee member voted in in favor of recommending to the board a modification to proposed rules to remove the deed restriction requirement in the proposed new rules highlighted below.

5. Short-Term Rental of an ADU or JADU:

If a lot has an ADU or JADU, both the primary dwelling and ADU or JADU shall be prohibited from being used as a short-term rental (a rental for term less than 30 days). As a condition of approval, the applicant shall be required to record a covenant against title to the lot, which shall set forth this restriction and confirm that this restriction shall run with the land and will bind successors in interest. This prohibition does not affect the ability of a lot owner from using the primary living area for long-term rental purposes (a rental for term more than 30 days).





The 45-day member comment period has concluded and the Architectural Standards Committee is asking the Board of Directors to consider adopting the proposed new rules with modification by deleting the deed restriction language, “As a condition of approval, the applicant shall be required to record a covenant against title to the lot, which shall set forth this restriction and confirm that this restriction shall run with the land and will bind successors in interest.” Should the board accept this recommendation, this portion of the new rules may have to go out for another 45-day notice with proposed deletion.

Options:

- A. Approve Without Modifications
Approve proposed new rules new rules for Accessory Dwelling Units and Junior Accessory Dwelling Units as published in the 45-day member notification. Effective date of approved new rules, February 22, 2020.
- B. Approve Recommended Modifications
Approve the proposed new rules new rules for Accessory Dwelling Units and Junior Accessory Dwelling Units with the exception of the Short-Term Rental of an ADU or JADU section. Effective date of new rules, February 22, 2020.
Approve the Short-Term Rental of an ADU or JADU section to go out for a new 45-day notice period.
- C. Do not approve proposed new rules new rules for Accessory Dwelling Units and Junior Accessory Dwelling Units and go out for new 45-day notice as a result of major modifications to more sections.
- D. Do not approve new rules new rules for Accessory Dwelling Units and Junior Accessory Dwelling Units.

Recommendation:

The Architectural Standards Committee is requesting the Board of Directors consider approving Option B:

Approve Recommended Modifications

- Approve the proposed new rules new rules for Accessory Dwelling Units and Junior Accessory Dwelling Units with the exception of the Short-Term Rental of an ADU or JADU section. Effective date of new rules, February 22, 2020.
- Approve the Short-Term Rental of an ADU or JADU section to go out for a new 45-day notice period.





If approved, the effective Date of the approved new rules will be February 22, 2020 with Board approval minus the Short-Term Rental of an ADU or JADU section.

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

