

NO RECORDING FEE PURSUANT
TO GOVERNMENT CODE SECTION 27383

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO**

City of Brentwood
150 City Park Way
Brentwood, CA 94513
Attn: Community Development Director

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**OCCUPANCY, LAND USE, AND DEVELOPMENT RESTRICTION
AGREEMENT FOR JUNIOR ACCESSORY DWELLING UNIT**

This OCCUPANCY, LAND USE, AND DEVELOPMENT RESTRICTION AGREEMENT FOR JUNIOR ACCESSORY DWELLING UNIT (the "Agreement") is entered into as of this ___ day of _____, 20 __, by and between the City of Brentwood, a municipal corporation (the "City") and _____ ("Property Owner").

RECITALS

WHEREAS, Property Owner is the present owner of that certain real property located at _____ (Parcel Number _____ - _____ - _____) in the City of Brentwood, County of Contra Costa, State of California, which is more particularly described in Exhibit A attached hereto and incorporated by this reference (the "Property"); and

WHEREAS, Section 17.100.005 of Title 17 (Zoning Ordinance) of the Brentwood Municipal Code (the "Municipal Code") sets forth certain conditions on the construction and/or conversion, occupancy and use of accessory dwelling units authorized by California Government Code sections 66310 – 66403, and Section 17.100.005(D)(5) of the Municipal Code requires the recordation of a covenant with respect to said conditions; and

WHEREAS, on _____, the City approved the Property Owner's application (Building Permit No. _____) for approval to construct a junior accessory dwelling unit within an existing or proposed single family dwelling subject to the terms and conditions of Section 17.100.005 of the Municipal Code (the "Ministerial Approval"); and

WHEREAS, This Agreement is the covenant recorded to satisfy the requirements of the Ministerial Approval.

NOW, THEREFORE, in consideration of the benefits received by the Property Owner and the public purposes served by Section 17.100.005 of the Municipal Code, the Property Owner and the City agree as follows:

1. Incorporation of Recitals. The foregoing recitals are incorporated into this Agreement by reference and made part of this Agreement.
2. Agreement to Comply with Restrictions. In satisfaction of the Ministerial Approval conditions, Property Owner hereby accepts the obligation to notice all future buyers and successors in interest of all conditions which apply to the approved junior accessory dwelling unit on the Property, which has been authorized as a "Junior Accessory Dwelling Unit" pursuant to the provisions of the Municipal Code.
3. No Separate Sale. The Junior Accessory Dwelling Unit shall not be sold separately from the single-family residence (also referred to herein as the "Primary Dwelling Unit") on the Property.
4. Approved Size and Plans. The Junior Accessory Dwelling Unit is restricted to the approved size and the attributes allowed in Municipal Code Section 17.100.005.
5. Property Owner Occupancy Requirement. The Property Owner shall occupy the Property (either the Primary Dwelling Unit or the Junior Accessory Dwelling Unit) as the Property Owner's principal place of residence. The Property Owner shall be considered as occupying the Property as the Property Owner's principal place of residence if Property Owner is living in either the Primary Dwelling Unit or the Junior Accessory Dwelling Unit for at least ten (10) months out of each calendar year, maintains a valid homeowner's property tax exemption, and provides reasonable requested documentation to verify occupancy as the City may request from time to time.
6. Temporary Waiver of Property Owner Occupancy Requirement. The City may, in its sole discretion, grant a temporary waiver of the Property Owner occupancy requirement if all of the following conditions are met: (1) the City has determined that the Property Owner will incur substantial hardship if he or she is not permitted to temporarily vacate the Property; (2) the Property Owner provides a written request to the City for a temporary waiver of the occupancy requirement before vacating the Property; and (3) the term of the occupancy waiver is not greater than one (1) year. A temporary vacancy shall only be considered approved if the City approves the request in writing.
7. Short-Term Rentals Prohibited. The Junior Accessory Dwelling Unit shall not be rented for periods of less than thirty (30) days.
8. Conformance with Brentwood City Code. The Junior Accessory Dwelling Unit shall conform to the requirements of Section 17.100.005 of the Municipal Code, as of the date of the Ministerial Approval. Because the restrictions contained in this Agreement memorialize a land use approval pursuant to the Municipal Code, the Ministerial Approval conditions shall continue to apply to the Property, even if this Agreement is terminated or removed from title following a foreclosure.

9. Cooperation Required. The Property Owner agrees to fully cooperate with the City in promptly providing all information requested by the City to assist the City in monitoring Property Owner's compliance with this Agreement.
10. Rights Appurtenant. The City and the Property Owner hereby declare their express intent that the covenants and restrictions of this Agreement shall run with the land, and shall pass to and be binding upon all parties having any interest in the Property, including all successors in title to the Property. Each and every contract, deed, lease or other instrument covering, conveying or otherwise transferring the Property or any interest therein, as the case may be, shall conclusively be held to have been executed, delivered and accepted subject to this Agreement regardless of whether the other party or parties to such contract have actual knowledge of this Agreement.
11. Enforcement. Any violation of this deed restriction may result in the imposition of fines or other enforcement action under the Municipal Code. The City may enforce the provisions hereof through any proceedings at law or in equity.
12. No Waiver. No delay or omission in the exercise of any right or remedy of City upon any default by Property Owner shall impair such right or remedy or be construed as a waiver. The City's failure to insist in any one or more instance upon the strict observance of the terms of this Agreement shall not be considered a waiver of the City's right thereafter to enforce the provisions of the Agreement. The City shall not waive its rights to enforce any provision of this Agreement unless it does so in writing, signed by an authorized agent of the City.
13. Amendments in Writing. This Agreement may not be amended except by a written agreement executed by City and Property Owner.
14. City Approval. The City Manager or his or her designee is authorized on behalf of the City to deliver any approvals or consents that this Agreement requires.
15. Notice. All notices required under this Agreement shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt and shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt as follows:

To the Property Owner:

At the address of the Property.

To the City:

City of Brentwood
150 City Park Way
Brentwood, CA 94513
Attn: Community Development Director

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this Section.

16. Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first written above.

CITY:

PROPERTY OWNER:

CITY OF BRENTWOOD, a
municipal corporation

Print Name

By: _____

By: _____
Sign as appears on deed

Name: _____

Its: _____

Print Name

APPROVED AS TO FORM:

By: _____
Sign as appears on deed

By: _____

Name: _____

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

On the _____ before me, _____ a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

Name: _____

(Typed or Printed)

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

Name: _____

(Typed or Printed)

(Seal)

EXHIBIT A

Legal Description of the Property