

RECORDED AT THE REQUEST OF:

City of Santa Cruz

WHEN RECORDED MAIL TO:

City of Santa Cruz  
Planning and Community Development  
809 Center Street, Room 206  
Santa Cruz, CA 95060

APN:

THIS INSTRUMENT IS BEING RECORDED FOR THE BENEFIT OF THE CITY OF SANTA CRUZ  
NO RECORDING FEE IS REQUIRED PURSUANT TO GOVERNMENT CODE §27383

### **DECLARATION OF COVENANTS AND LAND USE RESTRICTIONS**

(Gov't Code §65852.21)

This Declaration of Covenants and Land Use Restriction (the "Declaration") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ (hereinafter referred to as "Owner").

#### **I. RECITALS**

1.1 WHEREAS, Owner is the present owner of that certain real property located at \_\_\_\_\_, Santa Cruz, California, with Santa Cruz County Assessor's Parcel Number \_\_\_\_\_, and which is further described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and

1.2 WHEREAS, Owner intends to develop the Property for residential use as authorized by Government Code sections 65852.21; and

1.3 WHEREAS, certain conditions on the residential housing development on the Property as authorized by Government Code sections 65852.21 and the use and occupancy of any dwelling units built thereon requires the recordation of a covenant with respect to said conditions; and

1.4 WHEREAS, on \_\_\_\_\_, the CITY approved the development of the Property as set forth in City of Santa Cruz Permit Number \_\_\_\_\_ attached hereto as Exhibit "B" subject to the terms and conditions of Government Code sections 65852.21 (the "Ministerial Approval"); and

1.5 WHEREAS, Owner is entering into this Declaration as the covenant recorded to satisfy the requirements of the Ministerial Approval set forth in Government Code section 65852.21 and in accordance with Santa Cruz Municipal Code section 24.04.212; and

1.6 WHEREAS, to ensure compliance with the above-referenced state and local laws, this Declaration shall be executed and recorded prior to issuance of any building permit for the development of any improvements on either of the lots.

## **II. DEFINITIONS**

2.1 “Property” is defined in Paragraph 1.1 of the Recitals.

2.2 “Unit” includes any room(s) habitable as a dwelling space on the Property.

2.3 “Residential use” is defined as designed for use at home and not for business or commercial use.

2.4 “Short Term/Vacation Rental” is a residential unit in which overnight accommodations are offered for hire, or in which living accommodations for periods of thirty (30) days or less are customarily offered for hire, or otherwise used in a manner or purpose that would require the owner to comply with the requirements of Santa Cruz Municipal Code Chapter 3.28, Transient Occupancy Tax.

## **III. COVENANTS**

NOW, THEREFORE, in consideration of the benefits received by the Owner and the public purposes served by Section Government Code Section 65852.21, the Owner agrees as follows:

3.1 The Ministerial Approval is expressly conditioned upon full and continuing compliance with all covenants, restrictions, and conditions contained in this Declaration.

3.2 Future improvements to the Property may require further permits.

## **IV. RESTRICTIONS AND CONDITIONS**

The restrictions and conditions of which notice is hereby given are listed below.

4.1 Owner/Successors to Comply with Restrictions. Owner agrees to fully disclose to all potential purchasers and successors in interest of the Property, that the covenants, restrictions, and conditions of this Declaration shall apply to any residential unit created pursuant to Government Code Section 65852.21, and that any successor owner of the Property and/or owner of the residential unit shall also be required to enter into a Declaration of Covenants and Land Use Restriction in a form similar to this Declaration.

4.2 Irrevocable. The deed restriction covenant and the provisions hereof are irrevocable and non-modifiable except by express written consent of the City.

4.3 Residential Uses Only. The Property shall be used for residential use only.

4.4 Short-Term/Vacation Rentals Prohibited.

- a. All residential Units created on the Property by Government Code Section 65852.21 process shall not be used on a transient occupancy basis or for short term/vacation rental purposes in that all Units shall not be rented for a period equal to or shorter than thirty (30) days. Units may only be rented for a period of longer than thirty (30) days per Government Code Section 65852.21.
- b. Owner hereby assigns to City the right to receive the rents due or collected during the entire period the Property is occupied in violation of any of the terms of this Declaration.
- c. In addition to any other remedy in law or in equity, any and all rents paid to Owner related to any short term rental in violation of this provision shall be due and payable to the City, including transient occupancy tax owed to City under SCMC Chapter 3.28.

#### 4.5 Defense and Indemnification.

- a. Owner agrees to defend, indemnify and hold harmless the City of Santa Cruz, its officials, officers, employees, attorneys, and agents ("City Parties") from and against any and all claims, demands, actions, proceedings, damages, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees and court costs) (collectively, "actions") of every kind and nature whatsoever against any City Parties which may arise from or in any manner relate (directly or indirectly) to this Declaration. This obligation applies to, but is not limited to, actions which seek to attack, set aside, void, or otherwise modify the Ministerial Approval, permit decision, environmental review, or actions alleging failure to comply with the requirements of any federal, state, or local laws, including, but not limited to, CEQA, general plan, or zoning requirements related to the Property. The indemnification obligation includes reimbursing the City for any and all costs incurred in connection with such actions, including but not limited to, payment of attorneys' fees, court costs, damages, judgments, and settlement costs.
- b. Owner agrees to reimburse and indemnify the City for all of the City's costs, fees, and damages, including attorney's fees that the City incurs in enforcing the defense and indemnification provisions set forth herein.

4.6 Covenants Run with Land. The Owner and the City hereby declare their express intent that the covenants, terms, conditions and restrictions of this Declaration shall be binding upon the Owner and the Owner's heirs, successors, transferees, trustees, executors, administrators, assigns, other grantees, and successors, having or acquiring any right, title, or interest in or to all or any part of the Property and shall run with the land. The acceptance of any deed or other written instrument of conveyance shall constitute acceptance of the terms, conditions, and restrictions contained herein. Any successor in interest to Owner, including, without limitation, any purchaser, transferee, or lessee of a portion of the Property, shall be subject to all the duties and obligations imposed hereby.

4.7 Monitoring. Owner shall provide City with all information and documentation necessary for the City to be able to confirm compliance with this Declaration. Owner

consents to admit access to City Zoning Enforcement Officers upon reasonable notice of not less than twenty-four (24) hours for the purpose of inspecting the Property to ensure that the uses approved under this Declaration comply with the City and state building and zoning laws, and other applicable laws. This condition shall not relieve the City of the obligation of seeking an inspection warrant to gain access to the Property in the event that such consent is denied.

4.8 Event of Default. The occurrence of any of the following shall constitute an event of default under this Declaration:

- a. Failure of Owner to comply with the terms of the Ministerial Approval and/or City of Santa Cruz Public Works Permit referenced herein.
- b. Failure of Owner to comply with any provision of this Declaration.
- c. Failure of Owner to provide information to the City necessary to determine Owner's compliance with the requirements of this Declaration.
- d. False or misleading statements of Owner related to this Declaration.

4.9 Remedies Available to City. In the event of Owner's default under this Declaration, City may issue a Notice of Default requiring Owner to cure the breach or default within a thirty-day period. City may also impose penalties and seek any other remedy available in law or in equity related to the Owner's default.

- a. In the event Owner fails to cure the breach within the time prescribed, and/or fails to pay to the City any damages or fees due or penalties assessed within the time prescribed, City may pursue any judicial or administrative remedy available to City at law or equity (including administrative and judicial remedies prescribed at Title 4 of the Santa Cruz Municipal Code) for Owner's default and/or failure to perform under this Declaration. City may recover all administrative fees and legal costs (including attorneys' fees) related to enforcing the terms of this Declaration.
- b. Owner expressly acknowledges that City is authorized to commence a civil action to enjoin any breach or to compel specific performance of this Declaration and to recover damages and any other remedies in law or in equity related to the default, as well as its reasonable attorney's fees and costs against Owner.
- c. City may revoke its permission granted to Owner to allow improvements on the Property/Lots. Planning and/or building permits may be revoked and improvements on any Lots ordered removed in accordance with the procedures set forth in section 24.04.160 of the City's Zoning Ordinance
- d. Violations of this Declaration by any person, corporation, or other entity, whether a principal, agent, employee or otherwise, including Owner, shall be jointly and/or severally liable in accordance with the provisions of SCMC Title 4, or by any other remedy available to City at law or equity.

- e. The rights and remedies provided by this Declaration are cumulative and are in addition to any other remedy referred to in this Declaration or otherwise available under the law or in equity.

4.10 Recordation. Owner understands that any Unit created on the Property pursuant to Government Code Section 65852.21 is subject to the terms of this Declaration and knowingly and willingly agrees to record this Declaration as a condition of Ministerial Approval.

4.11 No Waiver. Waiver of any portion of this Declaration shall not constitute a waiver of the same or any other portion hereof.

4.12 Severability. If any paragraph, clause or provision of the Declaration is construed or interpreted by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so construed or interpreted and shall not affect the remaining paragraphs, clauses and provisions of the Declaration.

4.13 Contract Interpretation. Owner agrees that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Declaration.

4.14 Joint and Several Liability. The obligations and liabilities of each such person or party under this Declaration shall be joint and several.

4.15 Notices. Any notice required to be given by one party to the other shall be given in writing, via email, and concurrently delivered by: (a) personal delivery, in which case notice is effective upon delivery; (b) overnight courier (i.e., Federal Express) with charges prepaid or charged to the sender's account, in which case notice is effective when delivered; (c) priority U.S. Mail, in which case notice shall be deemed delivered on the second business day after the deposit thereof with the U.S. Postal Service. Notices shall be addressed to recipient as follows:

City: **Planning Department**

City of Santa Cruz  
337 Locust St.,  
Santa Cruz, CA 95060  
Email: \_\_\_\_\_

**Owner**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email: \_\_\_\_\_

Changes to the above information shall be given to the other party in writing ten (10) business days before the change is effective.

4.16 Counterparts. Any party may execute this Declaration in two or more counterparts, which shall, together, constitute one and the same instrument.

4.17 Warranty of Authority. If any party is a corporation, partnership, or other legal entity, the individual executing this Declaration on behalf of said corporate/legal entity represents and warrants that s/he/they is/are duly authorized to execute this Declaration on behalf of said entity in accordance with a duly adopted resolution of the board of directors of said entity, or in accordance with the bylaws of said corporate entity, or in accordance with another legal authority, and that this Declaration is binding upon said entity in accordance with its terms.

[SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGES]

**IN WITNESS WHEREOF**, this Declaration has been executed by Owner and acknowledged by City this day and year first above written.

**CITY**

By: \_\_\_\_\_

\_\_\_\_\_  
*(insert printed name here)*

Its: \_\_\_\_\_  
*(insert title here)*

**OWNER**

By: \_\_\_\_\_

\_\_\_\_\_  
*(insert printed name here)*

By: \_\_\_\_\_

\_\_\_\_\_  
*(insert printed name here)*

**OWNER SIGNATURES MUST BE ACKNOWLEDGED**

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            )  
  )ss.  
COUNTY OF SANTA CRUZ        )

On \_\_\_\_\_ before me, \_\_\_\_\_, 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.

\_\_\_\_\_  
Notary Public



**EXHIBIT “A”  
LEGAL DESCRIPTION**

*(insert here)*

**EXHIBIT “B”**  
**CITY OF SANTA CRUZ PUBLIC WORKS PERMIT**