

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

City of Pinole
2131 Pear Street
Pinole, CA 94564
Attn: City Clerk's Office

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: _____

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

This OCCUPANCY, LAND USE, AND DEVELOPMENT RESTRICTION AGREEMENT FOR THE ACCESSORY DWELLING UNIT(S) AND/OR JUNIOR ACCESSORY DWELLING UNIT (this "**Agreement**") is entered into as of this _____ day of _____, 20__, by and between the City of Pinole, a California chartered municipal corporation (the "**City**") and _____ ("**Property Owner**").

RECITALS

WHEREAS, Property Owner is the present owner of that certain real property located at _____, known as APN _____ in the City of Pinole, 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, California Government Code section 65852.2 regulates the development and use of accessory dwelling units, and California Government Code section 65852.22 regulates the development and use of junior accessory dwelling units; and

WHEREAS, this Agreement establishes the restrictions on the use of the accessory dwelling unit(s) and/or junior accessory dwelling unit at the subject real property based on the regulations of California Government Code section 65852.2 and 65852.22 at the time of the approval to construct the accessory dwelling unit(s) and/or junior accessory dwelling unit; and

WHEREAS, on _____, the Property Owner received approval from the City of Pinole for an application to create the accessory dwelling unit(s) and/or junior accessory dwelling unit.

NOW, THEREFORE, 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. Notice to Successors-in-Interest. Property Owner shall provide notice to all future buyers and successors-in-interest of all conditions which apply to the approved accessory dwelling unit(s) and/or junior accessory dwelling unit on the Property.
3. No Separate Sale. The accessory dwelling unit and/or 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. Short-Term Rentals Prohibited. The accessory dwelling unit shall not be rented for periods of less than thirty (30) days.
5. Owner-Occupancy for Residences with a JADU. Where a junior accessory dwelling unit is created on a property with a single family residence, the owner shall reside in either the junior accessory dwelling unit or the remaining portion of the single family residence. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
6. Conformance with Pinole Municipal Code. The accessory dwelling unit and/or junior accessory dwelling unit shall conform to all applicable requirements of Title 17 of the Pinole Municipal Code, as of the date of the Ministerial Approval.
7. 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.
8. 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.
9. Enforcement. Any violation of this Agreement may result in the imposition of fines or other enforcement action under the Pinole Municipal Code. The City may enforce the provisions hereof through any proceedings at law.

10. 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.
11. Amendments in Writing. This Agreement may not be amended except by a written agreement executed by City and Property Owner.
12. City Approval. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City or its designee, without further approval by the City Council, unless the City Manager determines in his or her discretion that such action or approval requires referral to the City Council for consideration.
13. 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 Pinole
2131 Pear Street
Pinole, CA 94564
Attn: Zoning Administrator

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

14. 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.
15. Attorneys' Fees. In any action at law, arbitration or other proceeding arising in connection with this Agreement, the prevailing party shall recover reasonable attorneys' fees and other costs, including but not limited to court costs and expert and consultants' fees incurred in connection with such action in addition to any other relief awarded, and such attorneys' fees and costs shall be included in any judgment in such action.
16. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

[Signature page follows.]

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

CITY:

CITY OF PINOLE, a California
municipal corporation

By: _____

Name: _____

Title: _____

ATTEST:

City Clerk

Approved as to Form:

By: _____
City Attorney

PROPERTY OWNER:

Name: _____

By: _____

(Sign as appears on deed)

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)

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)

EXHIBIT A
Legal Description of the Property

2866309.1