

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

City of Laguna Beach  
505 Forest Avenue  
Laguna Beach, CA 92651  
Attn: City Clerk

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(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

[Exempt from Recording Fee Recording Fee  
Pursuant to Government Code section 27383]

**AFFORDABLE HOUSING REGULATORY AGREEMENT AND  
DECLARATION OF COVENANTS AND RESTRICTIONS**

This AFFORDABLE HOUSING REGULATORY AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS ("**Agreement**"), effective [\_\_\_\_], (the "**Effective Date**"), is by and between the CITY OF LAGUNA BEACH, a California municipal corporation ("**City**"), and [\_\_\_\_] ("**Owner**"). City and Owner are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties.**"

**RECITALS**

A. Owner is the owner in fee of that certain real property located at [\_\_\_\_], in the City of Laguna Beach, County of Orange, State of California, legally described in Exhibit A attached hereto and incorporated herein by reference (the "**Property**"). The Property is improved with a single-family residence.

B. On [\_\_\_\_], Owner submitted an application to City to create an accessory dwelling unit on the Property (the "**ADU**") in accordance with Chapter 25.17 of the Laguna Beach Municipal Code (the "**LBMC**"). Owner paid City \$ [\_\_\_\_] in connection with the proposed ADU's building, planning, zoning, and impact fees (collectively, the "**ADU Fees**"). City approved Owner's ADU application on [\_\_\_\_].

C. LBMC section 25.17.070 authorizes City to refund the ADU Fees if Owner agrees to record a deed restriction that limits occupancy of the ADU to income restricted households at an affordable rent for at least 10 years. <sup>1</sup> Owner has agreed to so restrict occupancy the ADU.

D. The Parties have entered into this Agreement to memorialize the terms and conditions governing Owner's agreement to limit occupancy of the ADU as set forth herein in exchange for City's refund of the ADU Fees.

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<sup>1</sup> Pursuant to LBMC section 25.17.070(C), consultant review fees are not refunded by City.

## AGREEMENT

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by City and Owner, City and Owner agree as follows:

**1. Definitions.** The following terms as used in this Agreement have the meanings given below unless expressly provided to the contrary:

“ADU” has the meaning set forth in Recital B of this Agreement.

“ADU Fees” has the meaning set forth in Recital B of this Agreement.

“Affordable Rent” means annual rent as follows:

A. For Moderate Income Households, the product of 30 percent times 110 percent of the Median Income, adjusted for household size appropriate for the unit.

B. For Low Income Households, the product of 30 percent times 60 percent of the Median Income, adjusted for household size appropriate for the unit.

C. For Very Low Income Households, the product of 30 percent times 50 percent of the Median Income, adjusted for household size appropriate for the unit.

As used in this Agreement, the phrase “adjusted for household size appropriate to the unit” means for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit. “Affordable Rent” as of the Effective Date for each income category of Eligible Household is set forth in Exhibit B, attached hereto and incorporated herein by this reference. Owner may request an updated chart from City for any subsequent year.

“City” means the City of Laguna Beach, a California municipal corporation.

“Early Termination Request” has the meaning set forth in Section 2.3 of this Agreement.

“Effective Date” has the meaning set forth in the first paragraph on page 1 of this Agreement.

“Eligible Household” means a Moderate Income Household, a Low Income Household, or a Very Low Income Household. The income limits as of the Effective Date for each category of Eligible Household is set forth in Exhibit B, attached hereto and incorporated herein by this reference. Owner may request an updated chart from City for any subsequent year.

“Gross Non-Compliance” has the meaning set forth in Section 7.1 of this Agreement.

“HCD” means the California Department of Housing and Community Development.

“HUD” means the United States Department of Housing and Urban Development.

“LBMC” has the meaning set forth in Recital B of this Agreement.

“Low Income Household” means persons and households whose income does not exceed the qualifying limits for lower income households, adjusted for household size, as established and amended from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, and as published periodically by HCD.

“Median Income” means the median household income for the County of Orange, as established by HUD, and as published periodically by HCD.

“Moderate Income Household” means persons and households whose income does not exceed 120 percent of Median Income, adjusted for household size by HCD in accordance with adjustment factors adopted and amended from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, as published periodically by HCD.

“Property” has the meaning set forth in Recital A of this Agreement.

“Term” has the meaning set forth in Section 2.1 of this Agreement.

“Very Low Income Household” means persons and households whose incomes do not exceed the qualifying limits for very low income households, adjusted for household size, as established and amended from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937, and as published periodically by HCD.

## **2. Refund; Term & Early Termination.**

**2.1. Refund.** City shall refund the ADU Fees on or before the date that is 10 working days after the Agreement is recorded with the Clerk-Recorder for the County of Orange, California.

**2.2. Term.** Subject to Section 2.3 below, this Agreement’s term (“**Term**”) commences on the Effective Date and automatically expires and is no further force or effect on the date that is 10 years after City issues the ADU’s certificate of occupancy. <sup>2</sup>

### **2.3. Early Termination.**

(a) Prior to the Term’s expiration, Owner may request an earlier termination of this Agreement from City (“**Early Termination Request**”).

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<sup>2</sup> For instance, if the ADU’s certificate of occupancy were issued on March 1, 2024, the Agreement would expire 10 years later on March 1, 2034.

(b) City shall determine, in its sole and absolute discretion, whether to grant an Early Termination Request.

(c) City may only grant an Early Termination Request if Owner pays City the ADU Fees plus annual adjustments for every year after the ADU's certificate of occupancy was issued. The percentage of each annual adjustment will be equal to the change in the cost of living for the 12 month period published for the most recent calendar year end, as shown by the U.S. Department of Labor in its All Urban Consumers Index for the Los Angeles-Long Beach-Anaheim, CA area; provided, however, that such adjustment shall never be lower than zero percent.<sup>3</sup>

**3. Use; Affordability Covenants.** Owner hereby covenants and agrees that the ADU shall be used in accordance with the provisions set forth in this Section 3.

**3.1. General.** Throughout the Term, the ADU shall be rented to and occupied by an Eligible Household at an Affordable Rent. Not by way of limitation of the foregoing, Owner shall not permit the ADU to be utilized on a transient basis, or as a hotel, motel, short-term lodging unit, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, trailer court or park, day care facilities, or non-residential uses.

**3.2. Determination of Eligible Household Status.** Prior to any rental of the ADU, Owner shall obtain, provide to City for review and approval, and maintain on file with respect to such household an Income Computation and Certification Form substantially in the form attached hereto and incorporated herein as Exhibit C from such household dated immediately prior to the date of initial occupancy of the ADU by such household. In addition, Owner shall provide such further information as may be required by City for purposes of verifying a household's status as an Eligible Household. Owner shall use its best efforts to verify that the income provided by an applicant household is accurate by taking the following steps as a part of the verification process: (i) obtain the income tax filed by the applicant for the previous year; (ii) obtain three pay stubs for the applicant's most recent pay periods; (iii) obtain a written verification of income and employment from the applicant's current employer; (iv) obtain an income verification form from the Social Security Administration, California Department of Social Services, and/or California Employment Development Department if the applicant receives assistance from any of said agencies; (v) if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other evidence and/or verification of such applicant's income as is satisfactory to City; and (vi) obtain such other information as may be requested by City. Owner shall maintain each Income Computation and Certification Form obtained pursuant to this Section and Section 3.3 for a minimum period of five years. City shall endeavor to review and approve, conditionally approve, or disapprove any applicant within 10 working days after City's receipt of a complete application.

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<sup>3</sup> The following is a hypothetical example showing how the ADU Fees balance under Section 2.3 would be calculated. Assuming the ADU Fees were \$1,000 and Owner requested an early termination three years after the ADU's certificate of occupancy was issued, and CPI in year 1 was 3.5% and 5% in year 2, then the total amount owed to the City would be \$1,086.75 [ $\$1,000 \times 1.035$  (year 1 CPI) = \$1,035;  $\$1,035 \times 1.05$  (year 2 CPI) = \$1,086.75].

**3.3. Recertification.** Within 45 days prior to the first anniversary date of the occupancy of the ADU by an Eligible Household, and each anniversary date thereafter during the Term, Owner shall recertify the income and other information demonstrating the Eligible Household status of such household by obtaining a completed Income Computation and Certification Form based upon the current income and other information demonstrating the Eligible Household status of the household occupying the ADU. Owner shall provide City with a copy of each such recertification annually. If the recertification demonstrates that the household's income exceeds the income at which such household originally qualified, but does not exceed the income permitted for another income category pursuant to this Agreement, the household shall be re-designated to the higher income category. If the recertification demonstrates that the household's income exceeds the income of all income categories, to the extent permitted by applicable law, Owner shall not renew the lease, and said household shall be required to vacate the ADU within 180 days after the recertification.

**3.4. Rental Agreement.** The form of the rental agreement that will be used for the ADU shall be approved by City prior to the time the ADU is first rented. Once approved, no material changes shall be made to the form of the rental agreement without City's prior written reasonable approval. The term of the lease shall not exceed one year. The rental agreement shall obligate the Eligible Household to comply with the provisions set forth in Section 3 of this Agreement and an Eligible Household who violates such requirements shall be in default under the rental agreement. Not by way of limitation of the foregoing, each rental agreement with an Eligible Household shall include a provision to the effect that Owner has relied on the income and other information provided by the tenant on the Income Computation and Certification Form and all other supporting information supplied by the tenant in determining qualification for occupancy of the ADU, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such rental agreement. In addition, each rental agreement shall contain a provision that failure to cooperate with the annual recertification process may disqualify the tenant as such and will be cause for immediate termination of such rental agreement.

**3.5. Owner's Rental of Primary Residence.** Notwithstanding anything to the contrary in this Agreement, Owner shall be permitted to reside in the ADU as Owner's principal place of residence, and in such event, Owner may rent the primary residence on the Property pursuant to the terms of this Agreement related to rental of the ADU, except that "Affordable Rent" shall be based upon the household size appropriate for the primary residence.

**4. Records; Property Inspections.** Owner shall maintain complete and accurate records pertaining to the ADU, and shall permit any duly authorized representative of City to inspect the books and records of Owner pertaining to the ADU upon at least 24 hours advance notice. City shall have the right to inspect the ADU for purposes of ensuring compliance with this Agreement during normal business hours on 24 hours written notice.

**5. Repair and Maintenance of Property.** Owner shall maintain or cause to be maintained all improvements that may exist on the Property from time to time in good

condition and repair, reasonable wear and tear excepted (and, as to landscaping, in a healthy condition), and in compliance with all City codes and requirements. Owner shall promptly replace dead and diseased plants and landscaping with comparable approved materials.

**6. Indemnity.** Owner shall indemnify, defend, and hold harmless City and its officers, officials, members, employees, agents, and representatives from and against any loss, damage, costs, expenses, liability, claim, or judgment relating in any manner to the use of the ADU and/or Owner's performance under this Agreement, except to the extent caused by the active negligence or willful misconduct of City. In addition to the foregoing, Owner assumes any and all responsibility and is solely responsible for determining whether or not laborers employed relative to the construction of the development of the ADU must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California pursuant to California Labor Code section 1720 et seq., or pursuant to applicable federal law. Owner will indemnify and hold City harmless from all claims or damages arising from compliance with prevailing wage laws. The provisions of this Section 6 survive termination of this Agreement.

## **7. Management.**

**7.1. Gross Non-Compliance.** In the event of "**Gross Non-Compliance**" (as defined below) of the ADU, City shall have and retain the authority to direct and require any condition(s), acts, or inactions of Gross Non-Compliance to cease and/or be corrected immediately. For purposes of this Agreement, the term "Gross Non-Compliance" includes, but is not limited to, any one or more of the following:

(a) Knowingly leasing the ADU to a household that exceeds the prescribed income levels;

(b) Knowingly allowing the household occupying the ADU to exceed the prescribed occupancy level without taking immediate action to stop such overcrowding;

(c) Failing to timely maintain the Property in accordance with this Agreement;

(d) Failing to fully cooperate with the Laguna Beach Police Department in maintaining a crime-free environment at the Property; and

(e) Failing to fully cooperate with City, including its code enforcement division, or other local health and safety enforcement agencies with jurisdiction over the Property, in maintaining a decent, safe, and sanitary environment at the Property.

**8. Taxes and Assessments.** Owner shall pay, prior to delinquency, all property taxes and assessments in connection with the Property, and shall pay as they become due any financing secured by the Property, and any liens.

**9. Compliance with Laws.** Owner shall comply with all applicable laws, regulations, and rules of any governmental agencies having jurisdiction with regard to any activities conducted on the Property, including the lease of the ADU.

**10. Non-Discrimination Covenants.** In addition to any other nondiscrimination provisions applicable to the Property under federal, state or local law, Owner covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against, or segregation of, any person, or group of persons, on account of any basis listed in subdivision (a) or (d) of section 12955 of the Government Code, as those bases are defined in sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of section 12955, and section 12955.2 of the Government Code in the sale, lease, or rental or in the use, occupancy, or enjoyment of the Property, nor shall Owner itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property or any portion thereof.

**11. Miscellaneous.**

**11.1. Entire Agreement, Waivers.** This Agreement contains the entire agreement between the Parties relating to the subject matter hereof supersedes all negotiations and previous agreements between the Parties with respect to all or part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged. A waiver of the breach of the covenants, conditions or obligations under this Agreement by either Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or obligations of this Agreement.

**11.2. Attorneys' Fees and Costs.** If either Party commences an action against the other Party arising out of or in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, expert witness fees, costs of investigation, and costs of suit from the losing Party.

**11.3. Enforcement.** City shall have the power to enforce this Agreement and no other person or entity shall have any right or power to enforce any provision of this Agreement on behalf of City, or to compel City to enforce any provision of this Agreement against Owner.

**11.4. Interpretation; Governing Law.** This Agreement shall be construed according to its fair meaning and as if prepared by both of the Parties hereto. This Agreement shall be interpreted in accordance with the internal laws of the State of California.

**11.5. 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 by a court of competent jurisdiction, 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(s) had never been contained herein.

**11.6. Notices.** All notices required to be delivered under this Agreement to City or Owner must be in writing and shall be addressed to the respective Parties at such address set forth below or to such other address and to such other persons as the Parties may hereafter designate by written notice to the other Party hereto:

If to City:                      City of Laguna Beach  
   505 Forest Avenue  
   Laguna Beach, CA 92651  
   Attention: Community Development Department

With a copy to:                Best Best & Krieger  
   18101 Von Karman Ave.  
   Irvine, CA 92612  
   Attention: Megan Garibaldi, City Attorney

If to Owner:                    \_\_\_\_\_  
   \_\_\_\_\_  
   \_\_\_\_\_

**11.7. Amendment.** This Agreement may be amended only by a written instrument signed by both Owner and City.

**11.8. Covenants Run with the Land.** This Agreement is designed to create equitable servitudes and covenants running with the Property, in accordance with the provisions of Civil Code section 1468. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth herein shall run with the Property and shall be binding upon all persons having any right, title or interest in the Property, or any part thereof, their heirs, successive owners and assigns; shall inure to the benefit of City and its successors and assigns, shall be binding upon Owner and its successors and assigns and successors in interest; and may be enforced by City and its successors and assigns. Owner hereby declares its understanding and intent that the burden of the covenants set forth herein touch and concern the land and that Owner's interest in the Property is rendered less valuable thereby. Owner hereby further declares its understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the ADU by Eligible Households, and by furthering the public purposes for which City was formed.

In amplification and not in restriction of the provisions set forth above, it is intended and agreed that City is deemed a beneficiary of the agreements and covenants provided herein both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of City and such covenants shall run in favor of City for the entire period during which such covenants shall be in force and effect, without regard to



whether City is or remains an owner of any land or interest therein to which such covenants relate. However, all such covenants and restrictions shall be deemed to run in favor of all real property owned by City which real property shall be deemed the benefited property of such covenants. Furthermore, all of the covenants, conditions, and restrictions contained herein shall also constitute easements in gross running in favor of City. City shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any action at law or suit in equity or other proper proceedings to obtain damages or enforce the curing of such breach of agreement or covenant.

**11.9. Execution in Counterparts.** This Agreement may be executed in two or more counterparts, each of which when so executed and delivered shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, City and Owner have executed this Agreement as indicated below.

“City”

CITY OF LAGUNA BEACH,  
a California municipal corporation

By: \_\_\_\_\_  
Dave Kiff, City Manager

ATTEST:

\_\_\_\_\_  
Ann Marie McKay, City Clerk

APPROVED AS TO FORM:  
BEST BEST & KRIEGER

\_\_\_\_\_  
Megan K. Garibaldi, City Attorney

“OWNER”

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

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 Orange )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

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 \_\_\_\_\_ (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 Orange )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

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 \_\_\_\_\_ (Seal)

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

All that certain real property situated in the City of Laguna Beach, County of Orange, State of California, described as follows:

[applicant to insert legal description of property below]

## EXHIBIT “B”

### 2024 Income Limits for Eligible Households

Number of persons:	1	2	3	4	5	6	7	8
Very Low Income	5525	63100	71050	78900	85250	91550	97850	10415
Low Income	8840	10100	11365	12625	136350	14645	15655	16665
Median Income	9030	10320	11610	<b>12900</b>	139300	14965	15995	17030
Moderate Income	1083	12385	13930	15480	167200	17955	19195	20435

*Note: Income limits are published in May every year.*

### 2024 Affordable Rent

#### Very Low Income

Renting a 1 bedroom unit, payment may not exceed 1,290.00

Renting a 2 bedroom unit, payment may not exceed 1,451.25

Renting a 3 bedroom unit, payment may not exceed 1,612.50

#### Low Income

Renting a 1 bedroom unit, payment may not exceed 1,548.00

Renting a 2 bedroom unit, payment may not exceed 1,741.50

Renting a 3 bedroom unit, payment may not exceed 1,935.00

#### Moderate Income

Renting a 1 bedroom unit, payment may not exceed 2,838.00

Renting a 2 bedroom unit, payment may not exceed 3,192.75

Renting a 3 bedroom unit, payment may not exceed 3,547.50

Owner is advised to request an updated version of this table from City for income and rent information following the Effective Date.

**EXHIBIT "C"**

**INCOME COMPUTATION AND CERTIFICATION FORM**

[See following page]

**CITY OF LAGUNA BEACH**  
**505 Forest Avenue, Laguna Beach, CA 92651**

**INCOME COMPUTATION AND CERTIFICATION FORM**  
**(Affordable Housing Eligibility for Renter Occupied Unit)**

**PART I. PROPERTY CONTAINING ACCESSORY DWELLING UNIT**

Property Address: \_\_\_\_\_

**PART II. TENANT HOUSEHOLD INFORMATION**

		Date of Birth	Social Security #	Relationship

TOTAL NUMBER OF PERSONS IN HOUSEHOLD: \_\_\_\_\_ (Please list information on other household members below)


Mailing Address: \_\_\_\_\_ Telephone Numbers: Work (\_\_\_\_)  
 \_\_\_\_\_ Home (\_\_\_\_)  
 \_\_\_\_\_

**PART III. GROSS HOUSEHOLD INCOME** Complete the following, attach copies of required verification as specified below. Attach a note explaining any significant changes in household income between the previous year and the current year. INFORMATION IS REQUIRED FOR ALL MEMBERS OF THE HOUSEHOLD AGE 18 OR OLDER REGARDLESS OF WHETHER THEY CONTRIBUTE TO THE COSTS OF THE HOUSEHOLD. If you are not required to file a tax return, please indicate this in Part V by your signature.

	ANN INCOME	ANN INCOME	
INCOME SOURCES	Head of household	Others in household	VERIFICATIONS (needed for file)
A. Employment earnings			Last tax return & last 3 pay stubs, employer verification
B. Self-employment earnings			Last 2 tax returns & current financial statement
C. Social Security (OASDI)			Annual award letter
D. Supplemental Security Income (SSI)			Annual award letter
E. Public assistance (AFDC, general assistance, unemployment, etc.)			Current benefit statement
F. Pension (s)			Annual award letter, yearend statement, W-2
G. Interest income			Last 2 statements for all accounts
H. Investment income (stocks, bonds,			Last 2 statements for all accounts

