

LEASE/RENTAL RULES
MONTEVALLE OF SCOTTS VALLEY, INC.
a California nonprofit mutual benefit corporation

Adopted on May 27, 2021

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LEASE/RENTAL RULES

MONTEVALLE OF SCOTTS VALLEY, INC. a California nonprofit mutual benefit corporation

These Lease/Rental Rules are operating rules intended to conform to and comply with and otherwise meet the requirements of Civil Code §§4740 and 4741, as amended and adopted, respectively, effective January 1, 2021. In particular, they are intended to cause the Association to “comply with the prohibition on rental restrictions specified in Civil Code §4741 on or after January 1, 2021 regardless of whether the Association has revised their governing documents to comply with this section” as required by Civil Code §4741(f). Further, they are intended to “amend their governing documents to conform to the requirements of this section no later than December 31, 2021” as also required by Civil Code §4741(f). These rules may also include other desirable lease/rental provisions which are not added to comply with and/or conform to the above-cited statutes.

It is understood that some provisions in these rules may conflict with the Association’s CC&Rs. If so, the conflict will only be when the CC&Rs violate, or are believed to violate, the above-cited law. Where these rules conform to the law and the CC&Rs do not, these rules will prevail over the violating CC&Rs. The Association is not required, but reserves the right, to also amend or restate its CC&Rs to conform to the requirements of Civil Code §§4740 and 4741.

ARTICLE 1: DEFINITIONS

1.1 “Association” means MONTEVALLE OF SCOTTS VALLEY, INC., a California nonprofit mutual benefit corporation.

1.2 “CC&Rs” means the Association’s current effective declaration (including any amendments thereto) entitled “Restated Declaration of Covenants, Conditions, and Restrictions for Monteville of Scotts Valley” and recorded on December 7, 2015 as Instrument No. 2015-0048593 and as the term is defined in the Davis-Stirling Act.

1.3 “Davis Stirling Act” means and refers to the Davis-Stirling Common Interest Development Act, which is the portion of the California Civil Code beginning with Section 4000, that governs common interest developments.

1.4 “Member” means a Member of the Association as defined in the Association’s CC&Rs.

1.5 “Separate Interest” means a separate interest as defined in the Association’s CC&Rs.

ARTICLE 2: VOIDING UNENFORCEABLE PROVISIONS

- 2.1 Period of Ownership, Residency or Vacancy Prerequisites.
- a. *Declaration of Position re: Period of Ownership.* The Association declares that any provision requiring a separate interest to be owned for any period of time before it may be rented or leased is unenforceable under Civil Code §4741.
 - b. *Declaration of Position re: Period of Residency or Vacancy.* The Association declares that any provision requiring a Member to reside in and/or keep vacant a separate interest for any period of time before it may be rented or leased is unenforceable under Civil Code §4741.

ARTICLE 3: RENTAL/LEASE CAP

3.1 Declaration of Position. The Association declares that any provision establishing maximum number or percentage of separate interests that may be rented or leased that is lower than twenty-five percent (25%) of the total number of separate interests in the development is unenforceable under Civil Code §4741.

3.2 Amended Rental Cap Provision. Based on the foregoing, the Association's CC&Rs are hereby amended to increase the maximum number or percentage of separate interests that may be rented or leased to twenty-five percent (25%).

3.3 Applicability. The change represented in this Section is a non-discretionary, legal change of an existing rental/lease prohibition of the CC&Rs which would otherwise remain enforceable but for the mandates of Civil Code §4741. Therefore, the rental/lease cap change effected by this Section should not be deemed to establish a new "effective date" under Civil Code §4740(a) and/or §4741(h), but rather the change effected by this Section will continue to apply to and be enforceable against the same Members of the Association to which the existing provision of the CC&Rs applies.

3.4 New Rental Cap. No more than 25% percent of the separate interests in the Development may be leased to Tenants at any given time. If a Member wishes to lease a Lot or Unit to a Tenant at a time when 25% percent of the Lots or Units are already being leased, the Member may appeal to the Board for a special exemption.

3.5 Waiting List. Any Member wishing to lease a Lot or Unit must submit a written request to the Board to ensure the leasing capacity will allow. When at least 25% of the all Lots or Units are leased or rented to Tenants, the Board must maintain a waiting list.

3.6 Lots or Units with Member in Residence Not Subject to Rental Cap. Lots or Units are not deemed to be counted toward the rental cap while a Member resides in the Lot or Unit.

ARTICLE 4: SHORT-TERM RENTALS PROHIBITED

- 4.1 No Short-Term and Transient Rentals.
- a. *Prohibited Short Term Rental Period.* Short-term and transient rentals or leases of a separate interest for a period of thirty (30) days or less are prohibited.
 - b. *Advertising Limitation.* No separate interest may be advertised with Airbnb, VRBO, Flipkey, Homeaway, or by any other means, as being available for rent or lease for a period of thirty (30) days or less or in a manner that would suggest or imply the separate interest was available for rent or lease for a period of thirty (30) days or less.
- 4.2 Minimum Lease Term.
- a. *Declaration of Position.* The Association declares that any provision establishing a minimum lease or rental term in excess of thirty (30) days may be deemed reasonable under Civil Code §4741 without substantial justification. However, a provision establishing a minimum lease or rental term of thirty (30) days or less is expressly permitted by Civil Code §4741. The Association declares that any provision establishing a minimum lease or rental term in excess of thirty (30) days may be deemed reasonable under Civil Code §4741 with substantial justification. However, any provision establishing a minimum lease or rental term of thirty (30) days or less is expressly permitted by Civil Code §4741 and any longer term may be deemed to be an unreasonable restriction under Civil Code §4741.
 - b. *Amended Provision.* Based on the foregoing, the Association’s CC&Rs are hereby amended to establish a minimum lease/rental term to over thirty (30) days.
 - c. *Application.* Because a provision establishing or changing the minimum term of a lease or rental agreement does not “prohibit the rental or leasing of” a separate interest, but only reasonably restricts such right, neither Civil Code §4740(a) nor Civil Code §4741(h) apply and the change effected by this Section applies to all Members of the Association.

ARTICLE 5: RENTAL OR LEASING LESS THAN THE ENTIRE LOT

5.1 Declaration of Position. The Association declares that prohibiting the leasing or renting of less than an entire Lot or Unit under any circumstances may be unenforceable under Civil Code §4741. However, the Association believes that permitting the leasing or renting of less than an entire Lot or Unit only when the Lot or Unit is occupied by a Member may be deemed reasonable since rentals with Member occupancy are expressly contemplated in Civil Code §4741(e). Therefore the current CC&Rs are affirmed in this regard and the provision contained in Section 7.2 of the CC&Rs shall remain in full force and effect.