

LEASE/RENTAL RULES
CARLSBAD CREST HOMEOWNERS ASSOCIATION
a California nonprofit mutual benefit corporation

Adopted on 5/18/2021

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: PROHIBIT SHORT-TERM RENTALS AND CONFORM LEASE TERM

1.1 No Short-Term and Transient Rentals.

- a. *Prohibited Short Term Rental Period.* Short-term and transient rentals or leases of a Unit for a period of thirty (30) days or less are prohibited.
- b. *Advertising Limitation.* No Unit 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 Unit was available for rent or lease for a period of thirty (30) days or less.

1.2 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 is unenforceable under Civil Code §4741.
- b. *Unenforceable Provisions.* Based on the foregoing, the following provisions in the Association’s CC&Rs are hereby declared unenforceable:

- i. Article 7, Section 7.2, “Any rental or lease agreement . . . unless otherwise approved by the Board of Directors, shall have a minimum term of six (6) months. . .”
 - ii. In addition, any other language in Section 7.2 that refers to a six (6) month minimum lease period.
- 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 Unit, 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.