

This deed restriction fulfills the code requirement that the ADU or primary home be occupied by the property owner and ensures the ADU and primary home cannot be sold separately.

DECLARATION OF COVENANT AND RESTRICTION

THIS DECLARATION OF COVENANT AND RESTRICTION is made this ____ day of _____, _____ by _____ (“Declarant”).

1. Burdened Property. Declarant is the owner of the real property located within the City of Wheat Ridge, Jefferson County, Colorado described in the attached **Exhibit A** (“Burdened Property”) also known as _____ [street address] _____. A primary dwelling and an accessory dwelling (the “ADU”) presently exist on the Burdened Property, or are proposed to exist on the Burdened Property, pending the issuance of a City of Wheat Ridge building permit(s) if necessary and subsequent issuance of a Certificates of Occupancy.

2. Burdened Property Subject to Wheat Ridge Code. Accessory dwelling units in the City are subject to certain regulations under the Wheat Ridge Code of Laws (the “Code”), and in particular, Code Section 26-646, or its successor section(s) as amended from time to time. That Code Section requires that either the dwelling unit or the ADU on a property must be occupied by the property owner. The Declarant intends by this Covenant and Restriction to ensure continued compliance of the Burdened Property with the Code.

3. Imposition of Restriction. Declarant, for itself, its heirs, successors and assigns, hereby covenants and agrees that:

- A. No portion of the Burdened Property, either the primary dwelling or the ADU on the Burdened Property may be conveyed separately from the other, respectively; and
- B. The Burdened Property shall not be subdivided unless such subdivision can be accomplished in accordance with the provisions of the Code; and
- C. The owner of the Burdened Property must occupy either the primary dwelling unit or the ADU on the Burdened Property.

4. Burdens Run With the Land. Declarant hereby declares that this Restriction shall pass with and burden each and every tract, lot, and parcel of land within and which is a part of the Burdened Property and shall apply to and be binding upon the heirs, successors in interest and assigns of the Declarant and any owner hereafter of said tracts, lots and parcels, shall run with the land at law and in equity. Any person acquiring any interest in the Burdened Property shall be deemed for all purposes to have assented and agreed, as an essential condition of any such conveyance, to the provisions of this Covenant and Restriction, to have agreed to comply with this Covenant and Restriction and to have waived any right to challenge or contest the provisions hereof except as permitted herein.

5. Relationship to Land. Declarant acknowledges and agrees that the restrictions imposed by this Covenant and Restriction are related to and touch and concern the Burdened Property.

6. Enforcement. The City is an express third-party beneficiary of this Covenant and Restriction and is authorized and empowered to enforce the obligations established hereunder. The rights, duties and obligations contained in this Covenant and Restriction may be enforced by the filing of an appropriate action in law or in equity in the District Court for Jefferson County, Colorado whose jurisdiction over this Covenant and Restriction is hereby acknowledged.

7. Recording. This Declaration of Covenant and Restriction shall be filed for record with the office of the Jefferson County Clerk and Recorder by the City concurrent with issuance of the Building Permit for the ADU, or issuance of Certificate of ADU Approval for existing ADUs determined to be legally nonconforming.

The City will record the signed document and will provide a copy. Please do not record it yourself.

8. Removal of Declaration.

A. In the event the ADU is demolished or modified such that it no longer functions as an ADU as defined in the Code, upon application of the then-property owner and approval by the City pursuant to the Code, the City shall record a release of this Declaration in appropriate form.

B. In the event the imposition of this Declaration is no longer permissible under federal, state, or local law, upon approval by the City, the City shall record a release of this Declaration in appropriate form.

9. Severability. If any provision of this Declaration of Covenant and Restriction is held to be invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions.

IN WITNESS WHEREOF, Declarant has caused this Declaration of Covenant and Restriction to be signed by it duly and authorized agents the day and year first above set forth.

ATTEST:

DECLARANT: _____

By: _____

By: _____

Title: _____

STATE OF COLORADO)
) ss
COUNTY OF _____)

Some City Staff are notaries and can provide this service free of charge. Contact Planning & Zoning staff to coordinate.

The foregoing instrument was acknowledged before me this ___ day of _____, 2022 by _____, as owner of the Burdened Property.

Seal

Notary Public

My commission expires: _____

EXHIBIT A
LEGAL DESCRIPTION OF BURDENED PROPERTY
[ATTACHED]

Your deed or title work usually includes a legal description. If you don't have that readily available, Planning & Zoning staff can help to find the legal description.