

DIRECTIONS FOR EXECUTION AND RECORDATION

Accessory Dwelling Units require the approval of an Accessory Dwelling Unit (ADU) application from the City of Hollister Planning Division. As a condition of approval within the ADU, the applicant shall record deed restriction against the property prior to obtaining a final occupancy from the Building Department. The Planning Division has provided the Deed Restriction documents for the Property Owner, please see attached.

The Deed Restriction documents shall be completed and notarized by the Property Owner at the applicant/owner's expense. Once completed, the documents shall be submitted to the Planning Division for review to assure proper form and content. If not acceptable, the documents will be returned for correction.

The following outlines how to fill out the deed restriction document. Please read and follow the instructions carefully.

The steps are as follows:

1. Complete the attached Deed Restriction Form.
 - A. In the introductory paragraph, insert the date that the document is executed.
 - B. All holders of title to the Property must sign this document. Insert all names of owners in the introductory paragraph. You will have to ask for the deed to the property or a title report in order to ensure you have the correct names. Note: Deeds can be viewed or copied in person at the San Benito County Recorder's Office. They cannot be viewed or copied on-line.
 - C. Describe the status of the property owner in the introductory paragraph. For example, "a California corporation," "a single person," "husband and wife," etc. The marital status of the property owner is important, because all owners of the property must execute the document.
 - D. Attach the legal description for the property as Exhibit A. The legal description should be included in or attached to the grant deed for the Property. The legal description can also be found on a title report. If a copy of the legal description can be attached as Exhibit A. Otherwise, the legal description must be retyped verbatim (with no changes).
 - E. Attach the depiction of the ADU for the property as Exhibit B.

2. Sign the Deed Restriction and have the documents notarized. The signatures must be notarized and the notary acknowledgment attached to the document. All signatures must be complete and properly notarized. Corporations, partnerships, government entities and trusts require different forms of notary acknowledgment from the “personal” form provided here. The signature line must indicate the name of the corporation, etc., and the notary public must use the appropriate form of acknowledgment. If the notary public uses the wrong form, the document will be returned for a new notary acknowledgement.
3. Submit the documents to the Planning Division. The Planning Division staff and City Attorney will review the documents to assure proper form and content. If not acceptable, the documents will be returned to you for correction.
4. Once staff determines the documents to be of acceptable form and content, the documents will be provided to the applicant for Recordation with the San Benito County Recorder’s Office.
5. Upon recordation of these documents, the Planning Division shall be provided with proof of recordation. Please note that with recording, this document becomes a permanent exception to the title.
6. Once proof of recordation is received, the Planning Division will release the document to Building Department for consideration toward the issuance of a final occupancy.

PLEASE NOTE

The above instructions must be followed exactly. Failure to complete each item properly will necessitate return of the document for re-execution and delay issuance of your permits.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF HOLLISTER
375 Fifth Street
Hollister, CA 95023
Attn: City Clerk

Space Above this Line is for Recorder's Use Only

**DECLARATION OF RESTRICTIVE COVENANTS
FOR ACCESSORY DWELLING UNIT**

(Government Code § 27281.5)

This Declaration of Accessory Dwelling Unit Covenant ("Covenant") is executed as of _____ [day], _____ [month], 20__ [year], by _____ [Name or Names of Declarant(s)] (Collectively, "Declarant") and will be effective as of the date of its recording in the Records of San Benito County, California. The Deed Restriction, made in favor of the City of Hollister, is made with reference in respect to the following facts:

RECITALS

- A. The Declarant is the legal owner or authorized individual occupant (cooperative member) of the certain real property located at _____ [insert address], Hollister, California in San Benito County also described as Assessor Parcel Number (APN) _____ and is legally described in Exhibit A, which is attached hereto and incorporated herein as this ("Property").
- B. Pursuant to the Hollister Zoning Ordinance, the Declarant applied for an administrative permit from the City of Hollister ("City") to establish and construct an ADU on the Property as provided by Government Code Section 65852.2 and 65852.22. The location of the proposed ADU is depicted in the attached diagram attached as Exhibit B and incorporated herein by this reference.
- C. The City has approved the application for an administrative permit authorizing the ADU, subject to recordation of a deed restriction against the Property setting forth certain restrictions described in Government Code Section 65852.2 and 65852.22.
- D. Declarant desires by this Deed Restriction to comply with the City's conditions of approval attached to the administrative permit issued for the Property, and to bind the Property as set forth in this Deed Restriction, which will run with the Property and be binding upon it and upon all future owners.

E. The Declarant understands and acknowledges that the Property is subject to each of the restrictions set forth below:

1. Covenant Runs with the Land. In consideration of approval of the accessory dwelling unit, the Declarant does hereby covenant and agree to restrict, and does by this instrument intend to restrict, the future use of the Property as set forth below, by the establishment of this covenant running with the land. This Deed Restriction is intended to run with the Property and be binding upon all future owners thereof.
2. Restrictive Covenants. The following restrictive covenants shall apply to the Property:
 - a. Separate Ownership. The ADU may not be sold or owned separately from the principal dwelling unit, and Property upon which the ADU is located shall not be subdivided in any manner that would authorize such sale or ownership.
 - b. Rental. The principal dwelling unit and ADU shall not be rented for a period less than thirty (30) consecutive days. The ADU may be rented separate from the principal dwelling unit.
 - c. Size. The ADU is restricted to minimum and maximum size allowed per the development standards identified by Government Code section 65852.2 and 65852.22 as approved by the Administrative Permit.
 - d. Access. The ADU shall have independent exterior access separate from the Primary Dwelling.
 - e. Other Requirements. The ADU shall comply with all other applicable requirements set forth in California State law or the City of Hollister Municipal Code.

The above-listed restrictions shall be binding upon any successor in ownership of the Property as long as the ADU exists on the Property. The Declarant further understands and acknowledges that lack of compliance with this Declaration may result in legal action by the City against the property and/or occupants of the Property. The City shall have the right to enforce this Declaration and the conditions contained herein through any legal means available to it, including by code enforcement or by appropriate action at law or suit in equity against the Declarant and any persons claiming an interest in the Property.

3. Declarant's Reserved Rights. Declarant reserves to itself, and to its representatives, heirs, successors, assigns, transferees, agents, and lessees, all rights inuring from ownership of the Property not otherwise restricted or prohibited by virtue of this Declaration, including, but not limited to, the right to engage in or permit others to engage in all uses of the Property that are not expressly prohibited by this Declaration, and are not inconsistent with the purposes of this Declaration.
4. Successors and Assign Bound. Declarant hereby agrees and acknowledges that the Property shall be held, sold, conveyed, owned and used subject to the applicable terms, conditions and obligations imposed by this Declaration relating to the use of the Property, and matters incidental thereto. Such terms, conditions, and obligations are a burden and restriction on the use of the Property, as applicable.

The provisions of this Declaration shall (subject to the limitations contained in this Declaration and without modifying the provisions of this Declaration) be enforceable as equitable servitudes and conditions, restrictions and covenants running with the land, and shall be binding on the Declarant and upon each and all of its respective heirs, devisees, successors, and assigns, grantees, mortgagees, lienors, officers, directors, employees, agents, representatives, executors, trustees, successor trustees, beneficiaries, administrators, any person who claims an interest in the Property, and upon future owners of the Property and each of them.

5. No Other Restrictions. This Declaration imposes no other obligations or restrictions on Declarant, and neither its successors, nor any other person or entity claiming under them, shall be in any way restricted from using the Property except as provided herein or as otherwise provided in the Hollister Municipal Code.
6. General Provisions
 - a. Controlling Law. All applicable federal and State of California laws shall govern the interpretation and performance of this Declaration.
 - b. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Declaration shall be liberally construed to affect the purposes of this Declaration. If any provision in this Declaration is found to be ambiguous, an interpretation consistent with the purposes of this Declaration that would rather render the provision valid shall be favored over any interpretation that would render it invalid.

- c. Severability. If any provision of this Declaration or the application thereof is found to be invalid, the remaining provisions of the Declaration or the application of such provisions other than that found to be invalid shall not be affected thereby.
 - d. Termination of Rights and Obligations. A party's rights and obligations under this Declaration terminate upon transfer of the party's interest in the Declaration or Property, except that liability for acts, omissions or breaches occurring prior to transfer shall survive transfer.
 - e. Captions. The captions in this Declaration have been inserted solely for convenience of reference and are not a part of this Declaration and shall have no effect upon its construction or interpretation.
 - f. Modification. This Deed Restriction may not be amended, released, terminated or removed without prior written consent of the City of Hollister.
7. Recordation. This Declaration shall be recorded in the San Benito County Recorder's Office.

DECLARATION

Declarant hereby covenants as follows:

1. Declarant covenants that he, she, they or it shall not transfer the Property to an agent, assign, transferee, grantee, lessee, subsequent purchaser or heir (collectively, "Transferee") without notice to the Transferee of the ADU Restrictions Disclosure requirement. In order to impart constructive notice this restriction, Declarant covenants that he, she, they, or it shall provide a true, accurate, and recordable legal description of the Property to City, without cost to the City, and upon receipt of same, City may record this Covenant against the Property in accordance with Government Code Section 27281.5, and Declarant consents to such recordation.
2. Declarant further covenants that he, she, they, or it shall not transfer the Property to a successor in interest ("Successor") unless that Successor covenants that he, she, they or it and his, her, their or its successors in interest shall not transfer the Property to a Transferee without providing notice of the ADU Restrictions Disclosure Requirement. In addition, the ADU shall not be used as a legal dwelling unit and/or habitable space unless/until the City of Hollister is satisfied that the Property has satisfied all the restrictions listed above (hereafter, the "ADU Restrictions Disclosure Requirement").

3. The City of Hollister is a third party beneficiary of this Covenant and has the authority to enforce the same. This Covenant may not be released or amended in any fashion without first obtaining written consent to such release or modification from the City of Hollister, which consent shall not be unreasonably withheld.
4. The restrictions, which have been established pursuant to this Covenant, shall be deemed to be covenants running with the land for the benefit of the City in carrying out its responsibilities.
5. The restrictions contained in this Covenant shall inure to the benefit of the City and its successor, and assigns, and such covenants shall run in favor of the City for the entire period during which covenants shall be in force and effect, without regard to whether the City is or remains an owner of any land or interest therein to which such covenants relate. If Declarant's status relating to the Property changes from that of an declarant and to any their form of ownership interest (including, but not limited to, owner, joint tenant or tenant in common), Declarant agrees to be bound by the terms of this Covenant on behalf of themselves, any co-owners or tenants and on behalf of their heirs, executors, administrators, successors, and assigns. The acceptance of any interest in the Property or entity shall be subject to the provisions of this Covenant.

DATED: _____

DECLARANT'S SIGNATURE

DECLARANT'S PRINTED NAME

TITLE

DATED: _____

DECLARANT'S SIGNATURE

DECLARANT'S PRINTED NAME

TITLE

EXHIBIT A

[Insert Legal Description of Property]

EXHIBIT B

[Insert Depiction of ADU]

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.

(Place Notary Seal Above)