

**RESTRICTIVE COVENANT FOR THE ESTABLISHMENT OF AN ACCESSORY DWELLING UNIT (ADU) IN CONJUNCTION WITH ADU ASSISTANCE PROGRAM**

THIS RESTRICTIVE COVENANT ("Covenant") is entered this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ whose address is \_\_\_\_\_ ("Grantor") and the County of Summit, State of Colorado, by and through its Board of County Commissioners, whose address is Post Office Box 68, Breckenridge, CO, 80424 ("Grantee"), for the purpose of restricting the use of the subject property in perpetuity, according to the terms and conditions contained herein.

For and in consideration of the Grantee's approval of an "accessory dwelling unit (ADU)" via Building Permit B \_\_\_ - \_\_\_\_\_ on the property described below pursuant to Section 3809.03 of the Summit County Land Use and Development Code and in conjunction with the County's ADU Assistance Program, the Grantor hereby covenants and agrees to, with and for the benefit of the Grantee and the general public as follows:

1. **Property Affected:** This covenant and restrictions imposed hereby shall apply to the real property located in Summit County, Colorado, owned by the Grantor and particularly described as:

\_\_\_\_\_ also known as \_\_\_\_\_

2. **Use Restricted:** Either the ADU or the primary residence shall be restricted to long-term rental to Qualified Occupant(s) as defined in the Summit County Housing Deed Restrictions Guidelines (Guidelines) as duly adopted and amended from time to time, long-term occupancy by relatives of the property owner, or persons meeting the retirement eligibility criteria in the Guidelines. Long-term rental shall mean for a period of at least six consecutive (6) months as the sole residence of the occupant. Short-term rental of the restricted unit on the property is expressly prohibited, and the property owner shall not be permitted to occupy the restricted unit.
3. **List of Tenants Available:** Upon request of the Grantee, the Grantor shall, within ten (10) days of such request provide the Grantee with a list of the current tenants, their places of employment, and a copy of the lease agreement for the unit.
4. **Rental Procedures:** At such time that the restricted unit becomes vacant, the Grantor must immediately make reasonable good faith efforts to rent the unit to a Qualified Occupant. In the event that the County discovers the unit is not being rented according to the requirements of this covenant, the Grantor shall have 30 days to lease the unit to a Qualified Occupant, and submit a copy of such lease to the County along with the names of the current tenants and their places of employment, or show cause as to why such unit has not been leased in accordance with these regulations. The Grantor shall be allowed reasonable, good faith discretion in determining if any prospective tenants are suitable, provided that such discretion is not exercised intentionally or inadvertently in a manner to circumvent the intent of these regulations. However, in making such determination, no discrimination in terms of race, creed, gender, sexual orientation or other protected classifications will be tolerated. Any ADU not properly leased in accordance with these requirements shall be deemed a violation of the ADU approval and a breach of the covenant restricting the unit.
5. **Rental Cap:** The maximum affordable monthly rent of this ADU shall be limited to \_\_\_\_\_% of the current years Summit County Area Median Income for rentals as published by HUD.
6. **Enforcement:** The Grantee shall have the ability to pursue any and all remedies necessary to enforce the requirements of this covenant, including revocation of the ADU approval. Should any violation of this Covenant or any provision of the ADU approval occur, the Grantee shall be entitled to all costs, including reasonable attorney's fees, incurred in enforcing the same.
7. **Binding Effect:** This Covenant shall run with the land and be binding upon the Grantor, its heirs,

- successors, representatives, and assigns.
8. **Recordation:** Grantee shall record this instrument in a timely fashion in the official records of Summit County, at the Office of the Summit County Clerk and Recorder, and Grantee may re-record it at any time as may be required to effectively preserve its rights in this Covenant, in the exercise of Grantee's discretion.
  9. **Severability:** The terms and conditions of this Covenant are expressly intended to be severable. In the case one or more of the provisions contained in the Covenant, or any application hereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement and the application thereof shall not in any way be affected or impaired thereby.
  10. **Governmental Immunity:** The Grantee does not intend to waive, by any provision of this Covenant, the monetary limits of any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.
  11. **Jurisdiction and Venue:** The laws of the State of Colorado shall govern the interpretation and performance of this Covenant. Venue shall only be proper in Summit County, Colorado.
  12. **No Benefit to Third Party:** This Covenant does not and shall not be deemed to confer upon or grant to any third party any rights to claim damages or to bring any lawsuit, action or other proceedings against any of the Parties because of any breach hereof, or because of any terms, covenants, agreements or conditions contained herein. Other than as specified herein, this Covenant is not intended to impose any legal or other responsibility on the Parties.
  13. **Fee Waiver:** As a condition of waiving applicable County permit fees, Grantor agrees that Grantor shall not seek to remove or void this accessory dwelling unit covenant for a minimum duration of 10 years. Should Grantor wish to remove the ADU prior to the end of this 10 year period, Grantor shall pay all original permit fees and AUD assistance program funding, plus 2% annual compounding interest. After 10 years, said fees are waived in perpetuity. Waived fees are listed in Exhibit A attached.
  14. **ADU Assistance Program Funding:** The Grantor of this ADU Covenant has been the recipient of funding from the ADU Assistance Program in the amount listed in Exhibit B. As a condition of receiving funding from the ADU Assistance Program, Grantor agrees that Grantor shall not seek to remove or void this accessory dwelling unit covenant for 30 years. Should Grantor wish to remove the ADU prior to the end of this 30-year period, Grantor shall pay back ADU assistance program funding, plus 2% annual compounding interest. After 30 years, payback of said funds is waived in perpetuity.

EXECUTED as of the date first above written.

**GRANTEE:**  
COUNTY MANAGER  
OF SUMMIT COUNTY, COLORADO

\_\_\_\_\_  
Phillip Gonshak, County Manager

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF SUMMIT     )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20 \_\_\_\_,  
by Phillip Gonshak, County Manager, Summit County, Colorado, as Grantee.

Witness my hand and official seal. My commission expires \_\_\_\_\_.



**Exhibit A**

The waiver of fees associated with this Accessory Dwelling Unit (ADU) and covenant is expressly contingent on the condition that the Grantor not seek to remove or void this ADU covenant for a minimum of 10 years. Should Grantor wish to remove the ADU within these 10 years, the original fees, plus 2% compounding interest, will be required to be paid in full prior to removal. The summary of total fees waived at the time of recordation is below:

Building permit fees: \_\_\_\_\_  
Engineering fees: \_\_\_\_\_  
Other waived fees (as listed): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Exhibit B**

The **ADU Assistance Program Funding** associated with this covenant is expressly contingent on the condition that the Grantor not seek to remove or void this ADU covenant for a minimum of 30 years. Should Grantor wish to remove the ADU within these 30 years, the original grant award, plus 2% compounding interest, will be required to be paid in full prior to removal. The summary of total grant funds received at the time of recordation is below:

ADU Assistance Funds Received: \_\_\_\_\_