



To: Franklin County Board of County Commissioners
From: Pat Toth
Department: Planning & Building
Date: Wednesday, January 14, 2026

AGENDA ITEM NARRATIVE

Discuss deed restrictions for ADU's (Accessory Dwelling Units).

BACKGROUND

On September 6, 2023 the Board of County Commissioners approved amendments to the County Zoning Regulations allowing Accessory Dwelling Units (ADUs) in the A-1, A-2 and R-E Zoning Districts. Approved as part of the amendments was the condition that the property owner shall reside in either the PDU or the ADU and that a deed restriction shall be signed by the property owner and recorded with the Franklin County Register of Deeds Office, providing notice that the ADU is located on the property and must be used in compliance with the requirements of the Franklin County Zoning Regulations and that the lawful existence of the ADU is subject to the occupancy of the property owner in either the PDU or the ADU. Violation of the ADU regulations may result in the property owner being responsible for the removal of the ADU. The purpose of this item is to review and discuss the deed restrictions.

SPECIFIC ACTION REQUESTED

Discuss and consider potential deed restrictions for Accessory Dwelling Units within Franklin County.

ATTACHMENTS

ADU Restrictions

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS (Declaration) is made this ____ day of _____, 20__ (effective date), by _____ (Declarant).

RECITALS

WHEREAS, Declarant is the owner of a certain parcel of real property in Franklin County, Kansas more particularly described in Exhibit A attached hereto and commonly known as (address) hereinafter referred to as the "Property"; and

WHEREAS, Declarant is encumbering the Property as a condition to a request for issuance of a building permit by Franklin County Planning Department for an accessory dwelling unit, as defined in the Franklin County Zoning Regulations.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Declarant for itself, its successors and assigns, does hereby agree that the Property shall be subject to and shall be used in conformance with the following restrictive uses.

AGREEMENT

1. Restrictions. The Property shall be subject to the following restrictions:
 - (a) The Accessory Dwelling Unit must be used in compliance with the Franklin County Zoning Regulations; and
 - (b) The lawful existence of the Accessory Dwelling Unit is subject to the occupancy of the property owner in either the Primary Dwelling Unit or the Accessory Dwelling Unit. Violation of the Accessory Dwelling Unit Zoning Regulations may result in the property owner being responsible for the removal of the Accessory Dwelling Unit.
2. Declaration Runs with the Land. The restrictions under this Declaration shall be deemed restrictive covenants and shall run with the land, shall be a benefit and a burden to the Declarant, their successors and assigns and any person acquiring an interest in the Property, their grantees, successors, heirs, administrators, devisees, or assigns.
3. Release of Restrictive Covenants. This Declaration may be terminated as to the Property only by recorded document, issued and executed by the Franklin County Planning & Building Department, pursuant to applicable Franklin County Planning & Building procedures.

4. Violation of Restrictive Covenants. Should this Declaration of Restrictions be violated at any time, it shall be considered a violation of Franklin County Zoning Regulations Article 3, Zoning Districts and General Regulations and the remedies described in Article 3, Section 3-3.01.W thereof shall be available to the Franklin County Planning & Building Department. The Declarant shall be responsible for any and all costs, including but not limited to attorney's fees and costs incurred by Franklin County Kansas for any enforcement actions brought for violations of these restrictive covenants.
5. Severability. All of the restrictions, covenants, agreements and conditions contained herein shall be construed together, but if it shall at any time be held by a court of competent jurisdiction that any one of such restrictions, covenants, agreements or conditions, or any portion thereof is invalid or for any reason becomes unenforceable, no other restriction, covenant, agreement or condition contained therein shall be affected or impaired thereby.
6. Governing Law. This Declaration shall be construed, interpreted, and applied in accordance with the laws of the State of Kansas.

IN WITNESS WHEREOF, Declarant does hereby execute this Declaration to be effective as of the date first above written.

DECLARANT

Certificate of Compliance:

State of Kansas
Franklin County

I hereby certify that this Accessory Dwelling Unit has been reviewed and found to comply with the Zoning Regulations of Franklin County, Kansas therefore, this Restrictive Covenant to Property Declaration of Restrictions is approved for recording.

Signed this ____ day of _____, 20__.

Pat Toth --- Planning Director

STATE OF KANSAS)
COUNTY OF FRNKLIN)

This instrument was acknowledged before me this _____ (date) by
_____ (name/s of person/s).

Witness my hand and official seal.

Notary Public

My Commission Expires: _____

EXHIBIT “A”