

DECLARATION OF COVENANTS  
Prohibiting Use of a Space as a Separate Dwelling Unit

THIS DECLARATION OF COVENANTS (the "**Covenant**") is made, entered into, and declared by \_\_\_\_\_ (the "**Declarant**"), and its successors and assigns, for the benefit of the DISTRICT OF COLUMBIA, a municipal corporation (the "**District**"), acting by and through the DC Department of Buildings ("**DOB**").

I. **Name of Declarant/ Property Owner:** \_\_\_\_\_.

II. **Address:** \_\_\_\_\_, Washington, D.C. \_\_\_\_\_,  
Lot \_\_\_\_ in Square \_\_\_\_ and more fully described on **Exhibit A** (the "**Property**").

III. **Building Permit Application Number:** **B**\_\_\_\_\_ (the "**Application**") with plans depicting the construction proposed to be performed at the Property.

**IV. Description of the Entire Property:**

- a. The Property is located in the \_\_\_\_ zone, which allows as a matter of right \_\_\_\_ principal dwelling units and
- one accessory apartment.
  - no accessory apartment.

*Please refer to the zoning map on the website of the D.C. Office of Zoning Administration*

- b. The Building Permit Application states the Property has
- one accessory apartment located in the
    - principal building on the \_\_\_\_\_ floor(s) (*basement, 1<sup>st</sup> floor, 2<sup>nd</sup> floor etc.*);
    - accessory building on the \_\_\_\_\_ floor(s) (*basement, 1<sup>st</sup> floor, 2<sup>nd</sup> floor etc.*).
  - no accessory apartment in the
    - principal building on the \_\_\_\_\_ floor(s) (*basement, 1<sup>st</sup> floor, 2<sup>nd</sup> floor etc.*);
    - accessory building on the \_\_\_\_\_ floor(s) (*basement, 1<sup>st</sup> floor, 2<sup>nd</sup> floor etc.*).

- c. The Board of Zoning Adjustment (the "**Board**") has approved the Property to have \_\_\_\_\_ additional dwelling unit(s).

**V. Description of the Space**

A "**Dwelling Unit**" is one (1) or more habitable rooms comprising complete independent living facilities for one (1) or more persons, and including within those rooms permanent provisions for living, sleeping, eating, cooking, and sanitation. A dwelling unit is intended for a single household.

The Application depicts the principal Dwelling Unit, which is on the \_\_\_\_ level(s) of the building (“Principal Dwelling Unit”), as having an additional space (“Space”), with the following characteristics of a Dwelling Unit (“Characteristics”), as fully depicted on **Exhibit B**:

- Independence: separate utilities only serving the Space
  - direct door/access to the outside or access through a common hallway
  - gas
  - electric
  - water
  - water heater
  - other: \_\_\_\_\_

Full Bathroom: sanitation facilities only serving the Space

- Cooking/eating facilities only serving the Space
  - separate sink
  - gas appliance line
  - 220/240V electrical connection
  - other: \_\_\_\_\_

- VI. Declarant affirms that the Space will be used as an integral part of the Property’s Principal Dwelling Unit, and not used as an additional dwelling unit separate from the Principal Dwelling Unit.
- VII. Declarant desires the Property to have only \_\_\_ Principal Dwelling Unit (s), as reflected in the building permit(s), certificate of occupancy, or other applicable DOB and/or District instruments.
- VIII. The Zoning Administrator agreed that the building permit application complies with the Zoning Regulations provided that the Declarant executed and recorded a covenant confirming that the Space would not be used as a separate dwelling unit despite the Characteristics suggesting otherwise.
- IX. Declarant shall record this Covenant among the Land Records of the Recorder of Deeds of the District of Columbia (“**Land Records**”).

- X. **Recitals and Exhibits Incorporated.** The foregoing Recitals and attached Exhibits are all hereby incorporated in and made a part of this Covenant to the same extent as if herein set forth in full.
  
- XI. **The Space Is Not To Be Used As a Separate Dwelling Unit.** Declarant hereby represents and warrants that the Space shall:
  - (i) be used solely by members of the household occupying the Principal Dwelling Unit including au pairs and individuals employed as domestic help, or otherwise by occupants under a short-term rental agreement;
  - (ii) Not be used as an additional dwelling unit separate from the Principal Dwelling Unit;
  - (iii) Not obtain a separate mailing address or separate electric meter for the Space.
  
- XII. **Term of Covenant.** This Covenant shall remain in full force and effect, and the covenants shall be binding upon current and any future owners of the Property both individually and collectively unless:
  - (i) the Space no longer retains the Characteristics; and
  - (ii) DOB issues a permit or certificate of occupancy authorizing the use of the Space as a separate dwelling unit and terminates this Covenant.
  
- XIII. **Modification or Termination of Covenant.** As such time as Declarant desires to modify this Covenant to reflect a change in the Space or the Characteristics, or to terminate this Covenant due to changes in the Space, Characteristics, or Zoning Regulations or due to obtaining from DOB a certificate of occupancy or accessory apartment/dwelling unit certificate for the Space as a separate dwelling unit in compliance with the Zoning Regulations, Declarant shall:
  - (i) execute a modification or termination of this Covenant;
  - (ii) submit the application and perform the work required by DCRA to comply with the Zoning Regulations;
  - (iii) obtain the written approval of the modification or termination of the DOB Office of Zoning Administration for technical sufficiency, and of the DOB Office of the General Counsel for legal sufficiency, as compliant with the Zoning Regulations; and
  - (iv) record the executed modification or termination with the Recorder of Deeds of the District of Columbia.
  
- XIV. **Acknowledgment that the Space Is Not Reviewed for Code Compliance as Separate Dwelling Unit.** Declarant hereby acknowledges that DOB’s approval of the building permit application does not convey any approval of the Space as a dwelling unit separate

from the Property's Principal Dwelling Unit for purposes of compliance with any laws or regulations of the District.

- XV. **Primacy of Covenant.** Declarant shall, at its sole expense, comply with all provisions of this Covenant regardless of any conflicting requirements in any other covenant, easement, or other legal document recorded or unrecorded against the Property. Neither the entering into of this Covenant nor performance hereunder will constitute or result in a violation or breach by Declarant of any other agreement or order that is binding on the Property.
- XVI. **Real Covenants.** The provisions of this Covenant shall be deemed real covenants running with the Property and building, and shall bind Declarant and its heirs, successors and/or assigns. Every promise, undertaking, agreement, and covenant herein contained on the part of Declarant to be carried out and performed shall be binding upon the Declarant, its heirs, executors, administrators, successors and assigns, and shall be binding upon any person hereafter having any right, title, interest in or to the Property. When Declarant ceases to own an interest in the Property and/or the building, the rights, warranties, and obligations under this Covenant shall become the rights, warranties, and obligations of the successor-in- ownership and interest as to the Property and/or the building
- XVII. **Specific Enforcement.** The District shall have the right to specifically enforce the covenants contained in this Covenant. A violation of this Covenant shall be grounds for DOB to revoke a permit or certificate of occupancy issued in reliance on this Covenant.
- XVIII. **Good Standing.** To the extent the Declarant is an entity, the Declarant warrants:
- (i) It is duly organized, validly existing and in good standing under the laws of its state of jurisdiction and is qualified to do business and is in good standing under the laws of the District of Columbia; and
  - (ii) It is authorized to perform under this Covenant; and
  - (iii) Has all necessary power to execute and deliver this Covenant.
- XIX. **Recordation of Covenant.** Declarant shall, at its cost and expense, properly record this Covenant among the Land Records and shall furnish to DOB a copy of this Covenant certified by the Recorder of Deeds as a true copy of the recorded instrument prior to DOB issuing the Application as a building permit.
- XX. **Counterpart Execution.** This Covenant may be executed in one or more counterparts, which counterparts, when taken together, shall constitute a single, binding instrument.

XXI. **Governing Law.** This Covenant shall be governed by, construed and enforced in accordance with the laws of the District of Columbia

XXII. **Severability.** If any of the conditions or terms of this Covenant are found void or unenforceable, for whatever reason by any court of law or of equity, then every other covenant, condition or term herein set forth shall remain valid and binding.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Declarant, the Owner of \_\_\_\_\_, Washington, D.C., has, as of the day and year below written, executed this Declaration of Covenants.

By: \_\_\_\_\_  
Name: \_\_\_\_\_ Date \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_) ) ss:  
\_\_\_\_\_)

I, \_\_\_\_\_, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that \_\_\_\_\_, party to the foregoing Declaration of Covenants, personally appeared before me and, being personally well known to me, who has been appointed its attorney-in-fact and has acknowledged said Declaration of Covenants to be the act and deed of \_\_\_\_\_ in its capacity as the \_\_\_\_\_ [owner/ground lessee] of the Property, and that he delivered the same as such.

GIVEN under my hand and seal this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:

[NOTARIAL SEAL]

APPROVED AS TO TECHNICAL SUFFICIENCY:

\_\_\_\_\_  
Zoning Administrator  
DC Department of Buildings

\_\_\_\_\_  
Date

APPROVED AS TO LEGAL SUFFICIENCY:

\_\_\_\_\_  
Assistant General Counsel  
DC Department of Buildings

\_\_\_\_\_  
Date

EXHIBIT A

Legal Description



EXHIBIT B

Plans Depicting Space with Labelled Characteristics of a Separate Dwelling Unit