



HOUSING DEPARTMENT

970.668.4210
www.SummitCountyCO.gov

0037 Peak One Dr. PO Box 5660
Frisco, CO 80443

Summit County Voluntary Workforce Housing Availability and Sustainability Endowment (Housing Allowance Restrictive Covenant)

Background Information

On November 7, 2006, the voters of Summit County approved the Summit Combined Housing Authority Referred Measure 5A. The measure authorizes a temporary sales and use tax as well as a development impact fee on new construction to be collected over a period of 10 years and used for affordable housing purposes. In 2015 the voters voted for this fee to be collected in perpetuity. There are two options for the Development Impact Fee.

1. Pay the Impact Fee at the time of building permit issuance (see Building Department Handout); or
2. Execute and record a *Housing Allowance Restrictive Covenant* with the County, which grants a voluntary endowment to be paid to the County upon any sale or other legal transfer of ownership of the property, in an amount equal to one third of one percent (.333%) of the consideration paid for the transfer of the property. The paperwork associated with this option must be completed prior to or at permit issuance.

The Housing Allowance Restrictive Covenant is a voluntary alternative to paying the Impact Fee at time of building permit issuance. It is an option available to property owners developing residential structures. If a property owner selects this option, the completed Housing Allowance Restrictive Covenant must be given to the Summit County Building Department prior to permit issuance and the Housing Allowance Restrictive Covenant is recorded restricting the property as described above in perpetuity.

Covenant Details and Process Information

If a property has a Housing Allowance Restrictive Covenant recorded against it, there are multiple processes that come into play depending on what sale it is (1st or 2nd etc.). The following will give guidance on what do to next.

Exemptions from the Transfer Fee

There are certain exemptions to the transfer fee that require a buyer's affidavit. If your situation is exempt from the transfer fee, the buyer must fill out a buyer's affidavit and submit it to the Summit County Housing Department for approval and recordation. Examples of exemptions are:

- The first initial sale of the property subsequent to the execution and recordation of the covenant is exempt from the application of the transfer fee.
- Any sale under \$400,000 for single-family residences and under \$250,000 for other residential structures is exempt from the transfer fee.
- Sale to a government body or agency
- A transfer due to death
- Reorganization of an entity
- A transfer pursuant to a bankruptcy order
- Separation/divorce agreements/orders

Transfer Fee Payment

The transfer fee is first collected at the time of the second property transfer, and at the time of all subsequent sales afterward. The transfer fee is equal to one-third (1/3) of 1% of the gross consideration (sale price). The fee is due at closing and is payable to the Summit County Government, delivered to the Finance Department.

Removal of Covenant

In recognition of the fact that participation in the Voluntary Workforce Housing Availability and Sustainability Endowment is voluntary on the part of homeowners and the Housing Allowance Restrictive Covenant imposes an encumbrance on the property that subsequent buyers might not have otherwise chosen to establish, the Board of County Commissioners has determined that in certain cases, subject to the following criteria, the County may choose to allow a homeowner to remove the Housing Allowance Restrictive Covenant in exchange for full payment of the Fee for Covenant Removal.

- Time Limitation Homeowners may request to remove the covenant within seven (7) years from the date of original execution and recordation.
- Number of Transactions A covenant can only be removed prior to the second sale of the property subsequent to the execution and recordation of the covenant.
- Fee for Covenant Removal The homeowner seeking to remove a restrictive covenant shall pay the amount of the impact fee applicable at the time of building permit issuance plus 5% per year since that time, compounded annually and prorated on a monthly basis when necessary.

Example Fee Calculation:

5,000 sq. ft. single-family residence

Building Permit Issues: January 5, 2010

Building Permit Impact fee in 2010: \$10,000

Covenant Removal Request Received: March 10, 2014

Annual Interest Rate = 5%

Original Impact Fee January 2010	Fee in January 2011	Fee in January 2012	Fee in January 2013	Fee in January 2014	Fee in February 2014	Fee in March 2014	Total Increase Over Original Impact Fee (as of March 2014)
\$10,000.00	\$10,500.00	\$11,025.00	\$11,576.25	\$12,155.06	\$12,206.11	\$12,257.38	\$2,257.38

County Process for Removing a Housing Allowance Restrictive Covenant

The County Housing Department will administer the covenant removal process, which will include determining whether a particular property meets the criteria above, calculating the fee for covenant removal, and working in conjunction with the homeowner and County Attorney’s office to execute and record a Removal of Restrictive Covenant document. Contact the County Housing Department with any questions and/or to initiate the process.