



County of Modoc

"Where the West Still Lives"

Office of Assessor/Recorder

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RESTRICTIVE COVENANT MODIFICATION INSTRUCTIONS Government Code § 12956.2

NOTE: Assembly Bill 1466 (2021) has added additional duties to their Recorder for identifying and remedying restrictive covenants that may be found in their records. The bill requires each Recorder to establish a restrictive covenant program to assist in the redaction of unlawfully restrictive covenants.

Identifying Restrictive Covenants:

1. AB 1466 requires a "title company, escrow company, real estate broker, or real estate agent that has actual knowledge of a declaration, governing document, or deed that is being directly delivered to a person who holds or is acquiring an ownership interest in property and includes a possible unlawfully restrictive covenant to notify the person of the existence of that covenant and their ability to have it removed through the restrictive covenant modification process. "This bill would additionally authorize a title company, escrow company, county recorder, real estate broker, real estate agent, or other person to record a Restrictive Covenant Modification."
2. At the time of this writing, Modoc County has recorded three Restrictive Covenant Modifications. These Restrictive Covenant Modifications relate to documents (Deeds and Declaration of Restrictions) that were recorded during the 1940's. Depending on staffing levels and availability, the Recorder's Office will conduct a search for restrictive covenants that may have been included in Deeds or Declaration of Restrictions recorded from 1930 through 1969. If any documents are found containing unlawfully restrictive language, the Recorder will follow the appropriate steps to record a Restrictive Covenant Modification, as described below beginning at step 5 through 7.

Document processing steps:

1. Property owner notifies County Recorder's office of the document containing unlawful restriction.
2. County Recorder's office provides customer with the Restrictive Covenant Modification form.
3. Property owner purchases a certified copy of the document containing the unlawfully restrictive language; property owner omits the unlawfully restrictive language by striking/lining through the language directly on the certified copy
4. Restrictive Covenant Modification form is completed & signed by the property owners; signature required to be acknowledged

5. The complete certified copy of the document, with the unlawfully restrictive language stricken/lined through is attached to the completed, signed and acknowledged Restrictive Covenant Modification form and presented to County Recorder's office

6. County Recorder's office submits the following to County Counsel:

- Completed Restrictive Covenant Modification form with the attached certified copy containing the stricken/lined through unlawfully restrictive language
- Regular copy of the document containing unlawfully restrictive language without any strikes/lines over the unlawfully restrictive language

7. Restrictive Covenant Modifications shall be recorded within a "reasonable period of time, not to exceed three months, from the date the request for recordation is made, unless extraordinary circumstances apply."

8. Pursuant to Government Code § 12956.2 (c), "If a person requests to record a modification document, that person shall provide a return address in order for the county recorder to notify this person of the action taken by the county counsel on the respective property. The notice required pursuant to this subdivision may be made on a postcard mailed by first-class mail."

9. Upon approval by County Council, the document is recorded at no fee