

**Madera County Clerk-Recorder**  
**Restrictive Covenant Modification Program**  
**Implementation Plan – Modified 2024**

**Background**

Pursuant to the 2021 legislation set forth in California Assembly Bill (AB) 1466 and California Government Code Section 12956.3, the Madera County Clerk-Recorder has established a Restrictive Covenant Modification Program to assist in proactively identifying and redacting unlawfully restrictive language that may be found in the public record to become effective July 1, 2022.

Despite current federal and state laws that prohibit discriminatory restrictions based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information; some real property located throughout the nation, state and County of Madera that was developed prior to the passage of fair housing laws have recorded restrictions in place that contain now-illegal restrictions. These recorded restrictions are now illegal and unenforceable under current law; however, AB 1466 permits the County Recorder and other entities and individuals to record a Restrictive Covenant Modification document to remove this unlawful language. This recording shall be provided at no fee and shall be subject to the review and approval of Madera County Counsel or their designee.

## **Plan**

To comply with the requirements and goals of this project, multiple phases will be completed as staffing and funding of the County Recorder's office permits.

### *Phase 1 – Public Submissions*

During the initial phase of this program, the Madera County Recorder will continue to accept, review and process RCMs submitted by property owners as provided in existing law along with those prepared and submitted by title and escrow companies during the property sale transactions as permitted and required by AB 1466. Effective July 1, 2022, title and escrow companies are to assist in the preparation of RCMs for new owners who purchase property that is subject to restrictions that contain unlawful language. Submitted RCMs will be forwarded by Recorder staff to County Counsel as required by law to be reviewed for any unlawful language; if deemed to contain unlawful language the RCM will be recorded with the unlawful language redacted.

### *Phase 2 – OCR Review of Digitized Official Records (1980 – present)*

The Madera County Recorder will use Optical Character Recognition (OCR) software to review the digital images of all Official Records recorded from 1980 to the present day. Any record that contains unlawfully restrictive language will be identified and reviewed by County Counsel.

Upon the determination that the Official Record contains an unlawful restriction, an RCM document will be recorded.

### *Phase 3 – Digitization & OCR Review of Historic Records (1893 – 1979)*

To review the complete vault of Official Records in Madera County will first require the conversion of filmed images to digital images from the County's archived film or physical books. Once the digital images have been created, they will be reviewed using the same OCR technology to identify any record that may contain unlawful restrictions. Any identified records will be submitted to County Counsel for review and if approved, an RCM will be recorded.

### *Phase 4 – Known Recorded CCR's*

The County Recorder has compiled a list of approximately 2,600 existing recorded Covenants, Conditions and Restrictions (CC&Rs) from the 1930s to present day for subdivisions and other property located in Madera County. These may be visually reviewed for any offensive language and have an RCM recorded upon County Counsel approval.

### *Phase 5 – Handwritten Documents*

Any documents that are unable to be reviewed using OCR technology will be required to be reviewed manually. These will likely be the oldest, handwritten documents on record and will be a tedious process involving the manual visual inspection of records. Any of these documents determined to contain unlawful language will also be subject to County Counsel review prior to the recordation of an RC.

## **Timeline**

Phase	Start Date	Comments
Phase 1	07/01/2022	Ongoing.
Phase 2	TBD	Dependent upon costs and vendor selection.
Phase 3	April 2024	Digitization may be completed within several months. OCR review may be completed in phases.
Phase 4	September 2023	Paused until digitization complete. Digital records will produce clear images for staff to quickly review and identify unlawful language on known OCRs.
Phase 5	TBD	May begin as special project with existing or extra-help staff

Note: Phases may be implemented separately or concurrently at the County Recorder's discretion.

## **Tracking**

Each submitted RCM will be sent to County Counsel for legal review to determine if the language identified is unlawful and shall be redacted. Those documents deemed unlawful will be recorded and indexed as a “RESTRICTIVE COVENANT MODIFICATION” in the Recorder’s Official Record Index, along with the original document’s title. They will also be indexed under the original document’s grantor and grantee information with a reference to the original recording. If the Assessor’s Parcel Number is provided, this shall also be indexed.

Those RCM’s that County Counsel deems to be without violation, will have a “rejection” prepared. A copy of the rejection document will be retained by the Recorder’s for internal reference.

All original RCM submissions will be returned to the submitting party with either recording information or rejection letter.

As years of records are reviewed, a summary report will be made available detailing the number of documents reviewed, the number of RCMs recorded for each year, the recording information for each RCM, the recording reference to the original document and the affected APN(s) if available.

Reviewed CC&Rs will also be tracked, and a summary of affected subdivisions will be made available.

## **Continued Action**

Pursuant to California Government Code Section 27201, the Recorder shall not refuse any instrument, paper, or notice that is authorized to or required to by law to be recorded, including one that *may* contain unlawfully restrictive language. Newly recorded documents will be reviewed using OCR software, when available, and if identified, will go through the Restrictive Covenant Modification Program.

With continued legislation being introduced regarding unlawful restrictive covenants, this Restrictive Covenant Modification Program may be updated to meet any new statutory requirements at any time.

Timelines of Phase Implementation may be updated as more information and funding becomes available.

## **Resources**

[Bill Text – California Assembly Bill 1466](#)

[California Government Code Section 12956.2](#)

[California Government Code Section 27361.4](#)

[California Government Code Section 27257](#)

[California Government Code Section 27201](#)

[California Government Code Section 27388.2](#)

[Restrictive Covenant Modification Public Notice](#)

[Restrictive Covenant Modification Form](#)