

THE CITY OF HOUSTON Legal Department



Deed Restriction Enforcement

A deed restriction is:

- A covenant
- Runs with the property
- Affects the owners or tenants of real property
- Limits use of properties within the subdivision



Deed restrictions may be found at:

- Written restrictions may be found in a:
 - Plat map;
 - Deed;
 - Separately filed instrument; or,
 - Amendments to any of the above documents.
- A property owner may have received copies during the purchase of the property.
- Civic Associations frequently distribute unofficial copies or make them available on their website.

Creating or Amending Deed Restrictions

- Developer
 - Owns all of the property
- Chapter 201, Texas Property Code
 - Property owner opt out
 - Extend/Create – 50% +1
- Chapter 204, Texas Property Code
 - No opt out
 - Creation of a POA

Deed restrictions may be enforced by:

- A property owner within the subdivision;
- Homeowners association or civic club;
or,
- The City Attorney may enforce **some** deed restrictions.



The City is authorized to enforce certain private restrictions.



- Houston has been granted limited authority to enforce deed restrictions. (Tx. Loc. Govt. Code 212.151, et. seq.)
- Land use regulation is a critical component of a City's governmental function.
- Some cities regulate land use through zoning laws.
- Houston enforces the land use restrictions created by residents.

Common Restrictions:

- Limit a property to residential or commercial use or a combination of both.
- Establish the number and types of buildings allowed on lots; single family dwellings, multi-family, or commercial buildings.
- Create set back lines.
- Prohibit certain activities; noxious, offensive, lewd.
- Create architectural requirements.
- Require regular maintenance of homes and yards.

Restrictions enforceable by the City:

- Houston Ordinance 10-553 allows the City Attorney to enforce:
 - Use (residential v. commercial)
 - Building Setbacks
 - Size of lots or size, type, and number of structures on a lot.
 - Orientation of a structure.
 - Construction of fences that require a building permit:
 - Masonry and concrete over 4 feet, and all other materials over 8 feet.

A Note About Use Restrictions:

- Commercial Activity may include commercial trucks stored and dispatched from the home (box trucks, dump trucks, 18-wheelers)



Trailers



- Use can include the type of residential use: single family or multifamily
- Residential Use
- Single-Family Residential Use

The City is not authorized to enforce all restrictions.

- The following are samples of restrictions that are not enforced by the City:
 - Submission of plans;
 - Architectural Controls;
 - Automobiles parked on the grass;
 - Inoperable vehicles;
 - High grass; and
 - Animals
- Just because it is not enforceable by the City does not mean it is unenforceable.

The City Attorney's Office Assists in Enforcement.

- The City Attorney cannot represent property owners or civic associations and cannot provide legal advice to residents.
- A property owner may enforce their deed restrictions without the City of Houston's assistance.

STEP 1: COMPLAINT

Deed Restriction Complaints are accepted via mail, phone, fax, email, or through the City's website:

**Neighborhood Services Section
Deed Restriction Enforcement Team**

P.O. Box 368

Houston, Texas 77001

Deed Restriction Hotline: (832) 393-6333

Fax: (832) 393-6259

E mail: drcomplaints@houstontx.gov

Website: houstontx.gov

Each Complaint Must Include:

Correct Address of Violation

Type of Violation

Complainants may choose to remain anonymous

Neighborhood Services Section

- Each complaint is assigned by Council District, to a Deed Restriction Enforcement Team Attorney (Council Liaison).

- Districts A & C: Alexandra Tolbert (832) 393-6250 alexandra.tolbert@houstontx.gov
- Districts J: Natasha Bahri (832) 393-6306 natasha.bahri@houtontx.gov
- Districts D, E, & G: Paul Barnes (832) 393-6378 paul.barnes@houstontx.gov
- District H, I, & K: Bridgett Brumbaugh (832) 393-6275 bridgett.brumbaugh@houstontx.gov
- District B & F: LaShonne Watts (832) 393-6292 lashonne.watts@houstontx.gov

STEP 2: INVESTIGATION

■ Are the deed restrictions being violated?

- Evidence may include:
 - Photos from residents and city investigators
 - Individuals on the property
 - Vehicles on the property and street
 - License plates
 - Markings or signage on vehicles
 - Signage posted on the property
 - Business listings
 - Advertising
 - Witness Statements
 - Activity Logs
 - Construction Plans

STEP 3: ACTION

1. Warning Letter:

If the violation is substantiated:
Explanation of violation,
deadline for compliance,
liability for civil penalties



2. Follow up Investigation:

If no compliance,
gather evidence to
show violation
continuing.

3. Litigation:

May be filed after sufficient evidence is obtained,
unless there are ongoing settlement negotiations.

Most violations cease with a warning letter.
Many times a warning letter results in new evidence that
requires further investigation.



Litigation may be necessary if there is clear evidence that
the violation has continued after the warning letter.
Not every investigation will result in litigation.