

## **“Restrictive Covenants”**

Definition: Restrictive covenants are deed restrictions that apply to a group of homes or lots in a specific development or 'subdivision.' They are normally drafted and put in place by the original developer, and are different for every area of homes.

Restrictions give a development a more standard appearance because they control some of the activities that take place within its boundaries. Covenants nearly always stipulate the minimum size residence allowed, how many homes may be built on one lot, and what type of construction the homes must (or must not) be. They may include numerous other restrictions. Study covenants carefully before making an offer to purchase property.

Also Known As: Sometimes referred to as "deed restrictions." Restrictive covenants are deed restrictions but deed restrictions are not necessarily in the form of restrictive covenants.

## **How Restrictive Covenants Affect Land Use**

### **Home Buying Essentials**

When you're buying a home, it's important to understand the restrictive covenants and other deed restrictions that are in place for the real estate you want to buy, because they dictate how you can and cannot use the property.

Restrictive covenants are deed restrictions that apply to a group of homes or lots, property that's part of a specific development or subdivision. They are normally put in place by the original developer, and are different for every area of homes.

### **What's the Purpose of Restrictive Covenants?**

Restrictions give a development a more standard appearance, and control some of the activities that take place within its boundaries. When enforced, covenants protect property values.

### **What You'll Always See in Covenants**

Restrictive covenants nearly always stipulate the minimum size residence allowed, how many homes may be built on one lot, and what type of construction the homes must (or must not) be.

### **More Topics You'll See in Restrictive Covenants**

- Set backs (how far homes must be from streets and interior lot lines).
- Easements (such as a pathway for power lines or roads).
- Fees for road maintenance or amenities.
- Rules regarding changing or voiding the covenants.
- Rules about pets and other animals (for instance: no breeding for profit, no livestock, no unchained pets).
- Regulations dealing with in-home businesses and home rentals.
- Rules that limit tree-cutting
- Clauses that dictate what type of fencing can be used, or that forbid all types of fencing.
- Clauses to reduce clutter on lots, such as prohibiting owners from storing a vehicle that doesn't run within view of others, or parking a recreational vehicle on the property.

Some restrictions limit the paint colors that can be used on a home's exterior. Some might require that all homes have a certain type of siding. In areas where wildfires are a problem, covenants might require you to use only fire retardant building materials.

We have one development in our area that does not allow home owners to have indoor or outdoor cats, because it's an area that encourages wild birds. It's an unusual clause, but one a feline fan wouldn't want to be trapped in.

## **Covenant Disclosure**

Your real estate agent or the for sale by owner seller should give you a copy of a development's restrictive covenants before you make an offer on the property. If restrictions are not offered, ask for them. If no one has a copy, go to the county courthouse and ask staff to find them for you--they should be included in public records.

Don't be surprised after the sale, get the facts about a property early on so that you can eliminate it from your possible choices if the covenants include more restrictions than you can live with.

## **More Deed Restrictions**

Don't assume that a property is restriction-free just because it isn't in a development. There may be deed restrictions, rules and prior agreements to use that are recorded on an individual deed. Go to your local courthouse and read the current deed before you make an offer.

- Watch for wording that limits property use, such as "no mobile homes," or "no commercial use."
- Look for any statements that give others the right to use the property, such as [easement rights](#).

If statements reference a prior deed, look it up and read it.

## **Interpreting Restrictions**

A real estate attorney can answer any questions you might have about confusing clauses in deeds and restrictive covenants.

## **Zoning Issues**

Restrictive covenants have nothing to do with zoning or governmental regulations. Those are separate issues that could affect the way you use the property.

## **If Documents Are Not Available**

Insert a [contingency clause](#) in your offer to protect your interests if you must make the offer before you have an opportunity to read the deed restrictions. The clause should be worded to give you time to read and approve the restrictions, and to allow you to back out of the contract with no penalties if you do not approve of them.