

H	WILL THE COUNTY ENFORCE DEED RESTRICTIONS AND NEIGHBORHOOD COVENANTS?
This section explains what deed restrictions and neighborhood covenants are and how they are enforced.	
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What are deed restrictions and covenants?

Deed restrictions, deed covenants, restrictive covenants, and neighborhood covenants are all terms that are used to describe restrictions or limitations that are placed on a lot or group of lots by a lot owner (“grantor”) as a condition of its transfer to the lot purchaser or recipient (“grantee”). As such, they are considered to be part of the contractual agreement between the grantor and grantees when a lot or lots are sold or otherwise conveyed.

Deed restrictions may be placed on an individual lot for a number of reasons. Most commonly, deed restrictions are used to limit where buildings may be constructed on a lot or how the lot may otherwise be developed. For example, an owner of a large lot subdivides a smaller lot for resale but wants to ensure that any house constructed on the new lot does not interfere with the viewshed of the owner’s lot. In this case the grantor may add restrictive language to the deed limiting any future houses to be constructed only on a specific portion of the new lot. By including this restrictive language in the deed, the grantee would be accepting the conveyance and ownership of the land subject to the restriction.

A property owner or developer may also establish a common set of deed restrictions on a group of new lots being subdivided in order to control or manage the form and scale of future development. Often referred to as restrictive covenants or neighborhood covenants, these types of deed restrictions appear as common language in the deeds of all lots within a common development. Covenants can control a number of elements related to the construction of buildings on a lot including setback distances from property lines, minimum and maximum building sizes, and structure appearance. They can reference the rights of lot owners to use common or shared areas of the development such as a common use lake, open space, or trail system. They can also establish maintenance responsibilities for common use infrastructure such as a private road or access easement. The common deed language may also reference the creation, composition, and authority of a neighborhood association, homeowners association (HOA), architectural review board, or similar body to oversee and approve construction projects and development in a neighborhood.

How are deed restrictions and covenants enforced?

In order for deed restrictions and covenants to be effective, they have to be placed in the deed language as a condition of conveyance and give an entity the right of enforcement should there be any future violation of the restrictions or covenants. This entity could be the original grantor who established the restrictions or covenants. The grantor could retain the right of enforcement with language passing on this rights to a future assignee, such as their survivors or subsequent

purchasers of the grantor's property. In the context of a neighborhood or other common development, the entity may be a neighborhood association or HOA provided that such associations are properly formed as directed by the deed language and applicable bodies of law. The right of enforcement may also be held individually by each property owner that is subject or party to the deed restrictions or covenants. In this case, any one lot owner who is party to the restrictions or covenants may pursue legal action against another lot owner to enforce the restrictions or covenants.

Since deed restrictions and covenants are contractual in nature, enforcement actions are a civil matter between the entity with the right of enforcement and the lot owner who is in violation. If a dispute cannot be rectified among the parties, the remedy is to pursue legal action in the applicable court of law.

Will the County enforce deed restrictions and neighborhood covenants?

Deed restrictions and neighborhood covenants can often appear to be similar to County zoning regulations or other municipal code provisions. Unless the County has been specifically named a party to the restrictions or covenants in the property deed, the County has no role in the application or enforcement of the restrictions or covenants and would not be involved in any enforcement action. Enforcement would be a private matter among the entities named in the deed language.

It is very uncommon for the County to be a party to a deed restriction or covenant unless the County was a grantor or grantee of a lot that is subject to the restrictions. Conservation easements held by the County and the Clarke County Conservation Easement Authority (see [Chapter 1 \(General Information\), Section E – What is a Conservation Easement?](#)) are one example with the County holding enforcement authority over violations of the easement terms.

How can I take action to ensure that a property owner follows deed restrictions or neighborhood covenants?

If you are concerned that a property owner is violating a deed restriction or covenant to which you are a party, it is recommended that you consult with an attorney to determine your legal rights and recourse. Alternatively, you may also contact your HOA or similar association to determine whether they can pursue enforcement action through the court system.