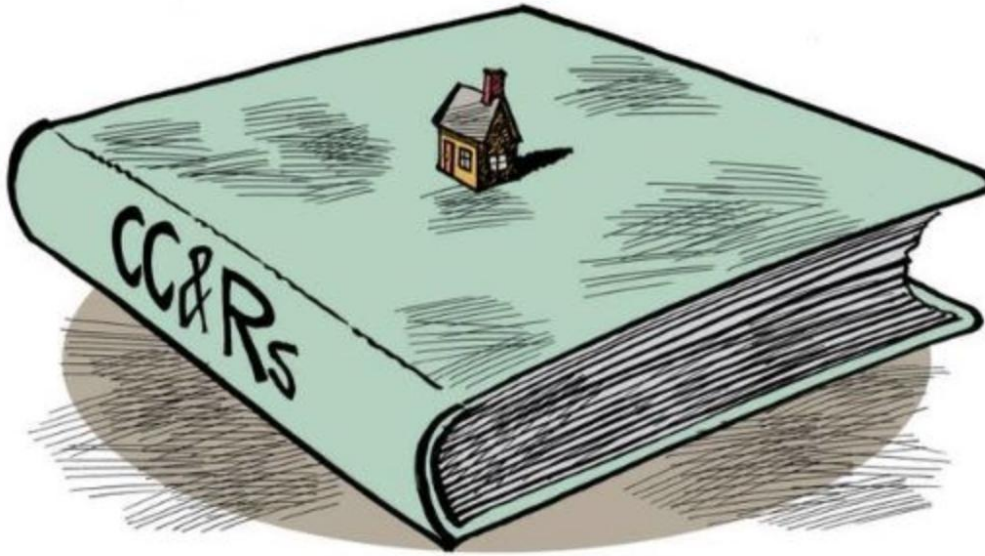


Proposed Circle C Amendments



Proposed CC&Rs:

I. Add Term and Definition of “Development Lot” in Article I, Section 1 (i): Definitions

New Language:

“**Development Lot**” shall mean a lot owned by a developer or builder that does not have a completed residence. Status as a Development Lot shall terminate at the earlier of (i) sale by the developer/builder or (ii) six months after issuance of a certificate of occupancy for the residence on the Development Lot. Whenever the term “Lot” appears in this Declaration, it shall include a Development Lot, unless expressly provided otherwise.

Explanation:

Basically, the addition of the term and definition of “Development Lot” allows the Circle C HOA to clarify that developers will be subjected to paying 25% of homeowner’s assessment dues for every unfinished residence owned and allowed 25% of the voting rights. It also limits the status of “development lot” to only six months after issuance of a certificate of occupancy for residence. After that term, developers must pay the full amount of homeowner’s assessment dues and are eligible for full voting privileges.

II. Add Subsection (c) “Added Land” to Article I, Section 3: Additions to Property Subject to Declaration

New Language:

(c). Added Land. The Board of Directors, by a 2/3 vote, shall have the authority to add land (Added Land) to this Declaration, provided: (i) the Added Land (x) consists of residential lots in a platted subdivision that is contiguous with The Properties, and (y) may include lots in said subdivision that serve an ancillary or support role for the residential lots that are being added (such as easements for drainage or public utilities, green space/conservation areas, and street right-of-way), (ii) no more than 200 residential lots are added in any 12 month period, (iii) the Declarant of the Added Land, or other person(s) with authority to consent to subjecting the Added Land to this Declaration, gives written approval thereto. The Added Land will be subjected to the Declaration, and joined to The Properties, upon recording of an amendment to this Declaration signed by the president or vice-president of the Association: no consent or approval by Members shall be necessary for such an amendment. Upon recording of the amendment joining the Added Land to the Declaration, the Added land will be subject to the terms, covenants, conditions, restrictions and obligations set forth in the Declaration, and the rights, privileges, duties and liabilities of persons subject to the Declaration will be the same with respect to such Added Land as with respect to the land originally covered by this Declaration.

Explanation:

Circle C HOA would like the ability to bring in the Rowell HOA (located at the back of Avana) into Circle C.

III. Amend Voting to One-Vote-for-Each-Lot-Owned - Article II, Section 2: Voting Membership

New Language:

Member Classes. Class A members shall be all those Members described in Article II, Section 1, with the exception of owners of Development Lots, who shall be Class B members.

Class A members shall be entitled to one vote for each Lot owned.

Class B Members shall be entitled to .25 (1/4) vote for each Development Lot owned. When two or more persons or entities hold undivided interests in any part of The Properties, the vote for such part of The Properties shall be exercised as they, among themselves, determine, but in no event shall the number of owners increase the number of votes to which the Lot is entitled.

Voting rights may be assigned, in whole or in part, as such rights relate to a particular tract of land, to a lessee holding a ground lease on such particular tract of land, PROVIDED that the primary term of such ground lease is for a period of not less than forty (40) years.

Explanation:

This proposed amendment is a biggie. For years, residents have asked why their votes might not count as much as their neighbors. The answer? Well, the original CC&Rs were written allowing for the value of the house to determine the number of votes. We have been trying to change this language to One-Vote-For-Each-Lot-Owned for over a decade but are never able to receive 67% of the eligible voters in Circle C to vote for this change and that is the percentage Texas requires to amend the CC&Rs.

By the way, “Class B Members” are developers, so that is why they will only get ¼ of a vote.

IV. Amend Annual Assessment to be Uniform - Article III, Section 3 – Annual Assessment

New Language:

Each owner of any part of The Properties shall pay to the Association an annual assessment. An annual assessment shall be levied against each Lot (including Development Lots, as defined below) within The Properties, and shall be for the purpose of promoting recreation, health, safety, and welfare of the residents of The Properties, improving and maintaining the Common Properties, enforcing the Declaration and rules of the Association, and operating and administering the Association. The annual assessment for each Lot shall be identical. The annual assessment for each Development Lot shall be 25% of the annual assessment for a Lot. The Board of Directors of the Association shall, after consideration of the current maintenance costs and future needs of the Association, set the amount of the annual assessment. The assessment shall not be more than 105% of the assessment for the preceding year (the “Cap”). The Association may not accumulate an operating surplus (the amount by which assessment revenue exceeds operating costs) at the end of any year which is more than two times the maximum permissible annual assessment for that year; provided that funds in reserve accounts for capital repairs, improvements and additions shall not be included in calculating the operating surplus. If an operating surplus exists at the end of the fiscal year, the next total annual assessment shall be reduced by an amount at least equal to said operating surplus; provided that for purposes of establishing the Cap, the assessment rate for that year shall be deemed to be the sum of the total annual assessment plus the amount of operating surplus applied.

Explanation:

This proposed amendment removes the original language stating homeowners, “shall pay to the Association an annual assessment of \$0.25 for each one hundred dollars (\$100.00), or fraction thereof, of value of that portion of The Properties so owned, as assessed by the Travis County Appraisal District for ad valorem tax purposes for the preceding year.”

Instead, with this proposed amendment, the annual assessments for homeowners will be equal for all residents, while Lots still under development will pay 25% of the annual assessment.

Also, language discussing the maximum annual assessment per Lot for VA or FHA loans in the year 1988 was removed in this update.

V. Amend Trash Container Allowances - Article V, Section 3 (k) – Trash

New Language:

Trash, recycling, compost, yard trimmings and garbage containers shall only be permitted to be placed at the curb the beginning of the calendar day preceding pickup day and must be brought in by the end of the calendar day after pick-up day. Refuse, garbage, recycling, compost and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view. To the extent allowed by applicable law, the Association shall have the right to contract for garbage collection and bill each Owner monthly for such service. No Lot shall be used or maintained as a dumping ground for trash. Periodic bulk/large item disposal items may be placed at the curb no more than 24 hours before the pick-up day specified by the City of Austin.

Explanation:

When the original Declaration of CC&Rs was written, Circle C was not a part of the City of Austin (COA), so the HOA hired private companies to collect trash. The language of the original CC&Rs allowed for trash bins to be placed in the street “a maximum of two times a week for 12 hours.” (Some of you longer term residents might remember when our trash was picked up twice a week.)

This proposed Amendment updates the language to limit trash containers in streets to only on pickup day. It also clarifies that trash bins must be properly screened/ hidden from view at all other times. Also, bulk disposal items may only be placed outside no more than 24 hours before the scheduled bulk pickup.

VI. Amend Definition of Residential Purposes - Article V, Section 1 – Single Family Residential Construction

New Language:

No building shall be erected, altered or permitted to remain on any Lot other than one detached single- family dwelling used for residential purposes only and not to exceed two and one-half (2 ½) stories. As used herein, the term “residential purposes” means actual use primarily as a place of abode, and excludes use as a rooming house, boarding house, hostel, hotel, commune, and/or public meeting space/event center. Except as hereinafter provided with respect to model homes, each residence shall have a fully enclosed garage for not less than two (2) cars, which garage shall be available for parking automobiles at all times without any modification being made to the interior of said garage. The garage portion of any model home may be used by a builder for sales purposes, storage purposes and other related purposes. Upon (or prior to) the sale of said model home to the first purchaser thereof, the garage portion of the model home shall be converted to a fully enclosed garage. No mobile homes or trailers shall be placed on a Lot. No building of any kind or character shall be moved onto any Lot without the advance written permission of the Architectural Control Committee.

Explanation:

There are three items in Article V, Section 1 that have changed in this proposed amendment.

1. Prior language of Article V, Section 1, determined what “*residential purposes*” was not, but did not explain what it was. This new language also provides a definition: “*residential purposes’ means actual use primarily as a place of abode.*”
2. The original section states, “*no Lot shall be used for educational, religious, institutional, or professional purposes of any kind whatsoever.*” That sentence was removed from this proposed amendment to allow people to now work from home within the guidelines.
3. The original CC&Rs language states, “No building of any kind or character shall ever be moved onto any Lot within said Subdivision”. This new language adds a provision that the Architectural Control Committee (ACC) may provide prior written approval for moving a building (such as a greenhouse or storage shed) onto a Lot.

VII. Amend Use of Business Activities on Lot - Article V, Section 3 (b) – Use Limitations

New Language:

Professional, business, or commercial activities to which the general public is invited shall not be conducted on any Lot. An Owner or resident may conduct business activities on a Lot provided: (1) the use is incidental to the primary use of the Lot as a residence and place of abode; (2) the use conforms to applicable governmental ordinances; (3) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from neighboring Lots; (4) the business does not generate a level of vehicular or pedestrian traffic, or a number of vehicles parked in The Properties, which is noticeably greater than is typical of residences in which no business activity is being conducted,

such determination to be made by the Board in its sole discretion; (5) the business activity is consistent with the residential character of The Properties; and (6) the use does not constitute a nuisance or unreasonably interfere with the use and enjoyment of neighboring Lots by other residents.

Explanation:

This proposed amendment changes the language from no business use in a residential home to allow for limited business use of home with provisions, so that residents that work from home will not be in violation of CC&Rs.

VIII. Amend to Allow ACC approval for Permanent Basketball hoop to be installed - Article V, Section 3 (m) – Recreational Equipment

New Language:

No permanent (eg: affixed to or anchored in the ground) recreational equipment, including but not limited to swing sets, skateboard ramps or bicycle ramps shall be permitted in the front yard of any residential structure. Portable (eg: readily moveable) recreational equipment is allowed in the front yard but must be removed from the front yard at the end of each day of use (i.e., stored in garage, or otherwise stored in compliance with this Declaration), kept out of the street Right-of-Way and maintained in good condition. No basketball backboards or hoops shall be attached to the front of the residence. All basketball installations require Architectural Control Committee approval and must meet the guidelines set by the Committee

Explanation:

This proposed amendment changes the language from not allowing any recreational equipment in the front yard to allowing permanent basketball goals to be installed with ACC approval that meet the established guidelines.

IX. Amend Requirements of Majority Votes to Change Amendments - Article VIII, Section 2 – Miscellaneous Provisions

New Language:

Section 2. Amendment

- a. By Members. This Declaration may be amended or terminated by a majority (fifty percent plus 1) of the total eligible votes of the membership
- b. By Directors. This Declaration may be amended by the Board of Directors, without consent of the membership, as necessary to conform the Declaration to the requirements or provisions of any United States or Texas statute or regulation, City of Austin, Travis County Ordinance, Hays County Ordinance, or judicial ruling of a Texas Court or federal court with jurisdiction over legal actions in Texas.
- c. Effective Date. An amendment of the Declaration becomes effective when the instrument is filed of record in the county official public records

Explanation:

The CC&Rs were originally written requiring 75% of eligible voters in agreement to make a change. This was intended to make it difficult to change the CC&Rs. Obtaining that amount is near impossible, however, so we have been left with outdated regulations for several decades. This proposed amendment allows for a majority vote of eligible homeowners (51%) to vote for future proposed amendments to the CC&Rs or the Board of Directors may amend the Declaration if necessary to align with current U.S., state, or local laws.