

TEXAS PROPERTY CODE APPLICABLE TO CLCCA:

Texas Constitutions and Statutes can be found at: <https://statutes.capitol.texas.gov>

Chap 5 – Conveyances

Chap 201 – Restrictive Covenants Applicable to Certain Subdivisions

Chap 202 – Construction & Enforcement of Restrictive Covenants

Chap 203 – Enforcement of Land Use Restrictions (Certain Counties)

Chap 204 – Powers of POAs Relating to Restrictive Covenants

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Chap 209 – Texas Residential Property Owners Protection Act

§209.001, .002, .003, .004; §209.0052; §209.0055; §209.00505; §209.00591; §209.00594, .006; §209.0065; §209.0063, .0064, .007, .008, .009, .0091, .0092, .0093, .0094, .010, .011, .012, .013, .014, .015, .016, .017

Chap 212 – Extension or Restrictions by Majority Vote

In further detail:

RAINWATER HARVESTING / SOLID WASTE COMPOSTING / IRRIGATION SYSTEMS / DROUGHT RESISTANT LANDSCAPING (202.007)

Sec. 202.007. CERTAIN RESTRICTIVE COVENANTS PROHIBITED. (a) A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from:

- (1) implementing measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush, or leaving grass clippings uncollected on grass;
- (2) installing rain barrels or a rainwater harvesting system;
- (3) implementing efficient irrigation systems, including underground drip or other drip systems; or

- (4) using drought-resistant landscaping or water-conserving natural turf.

(b) A provision that violates Subsection (a) is void.

(c) A property owners' association may restrict the type of turf used by a property owner in the planting of new turf to encourage or require water-conserving turf.

(d) This section does not:

(1) restrict a property owners' association from regulating the requirements, including size, type, shielding, and materials, for or the location of a composting device if the restriction does not prohibit the economic installation of the device on the property owner's property where there is reasonably sufficient area to install the device;

(2) require a property owners' association to permit a device described by Subdivision (1) to be installed in or on property:

(A) owned by the property owners' association;

(B) owned in common by the members of the property owners' association;

or

(C) in an area other than the fenced yard or patio of a property owner;

(3) prohibit a property owners' association from regulating the installation of efficient irrigation systems, including establishing visibility limitations for aesthetic purposes;

(4) prohibit a property owners' association from regulating the installation or use of gravel, rocks, or cacti;

(5) restrict a property owners' association from regulating yard and landscape maintenance if the restrictions or requirements do not restrict or prohibit turf or landscaping design that promotes water conservation;

(6) require a property owners' association to permit a rain barrel or rainwater harvesting system to be installed in or on property if:

(A) the property is:

(i) owned by the property owners' association;

(ii) owned in common by the members of the property owners' association; or

(iii) located between the front of the property owner's home and an adjoining or adjacent street; or

(B) the barrel or system:

(i) is of a color other than a color consistent with the color scheme of the property owner's home; or

(ii) displays any language or other content that is not typically displayed by such a barrel or system as it is manufactured;

(7) restrict a property owners' association from regulating the size, type, and shielding of, and the materials used in the construction of, a rain barrel, rainwater harvesting device, or other appurtenance that is located on the side of a house or at any other location that is visible from a street, another lot, or a common area if:

(A) the restriction does not prohibit the economic installation of the device or appurtenance on the property owner's property; and

(B) there is a reasonably sufficient area on the property owner's property in which to install the device or appurtenance; or

(8) prohibit a property owners' association from requiring an owner to submit a detailed description or a plan for the installation of drought-resistant landscaping or water-conserving natural turf for review and approval by the property owners' association to ensure, to the extent practicable, maximum aesthetic compatibility with other landscaping in the subdivision.

(d-1) A property owners' association may not unreasonably deny or withhold approval of a proposed installation of drought-resistant landscaping or water-conserving natural turf under Subsection (d)(8) or unreasonably determine that the proposed installation is aesthetically incompatible with other landscaping in the subdivision.

(e) This section does not apply to a property owners' association that:

(1) is located in a municipality with a population of more than 175,000 that is located in a county in which another municipality with a population of more than one million is predominantly located; and

(2) manages or regulates a development in which at least 4,000 acres of the property is subject to a covenant, condition, or restriction designating the property for commercial use, multifamily dwellings, or open space.

Added by Acts 2003, 78th Leg., ch. 1024, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1311 (H.B. 3391), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 736 (S.B. 198), Sec. 1, eff. September 1, 2013.

Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section:

(1) "Development period" means a period stated in a declaration during which a declarant reserves:

(A) a right to facilitate the development, construction, and marketing of the subdivision; and

(B) a right to direct the size, shape, and composition of the subdivision.

(1-a) "Residential unit" means a structure or part of a structure intended for use as a single residence and that is:

(A) a single-family house; or

(B) a separate living unit in a duplex, a triplex, or a quadplex.

(2) "Solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by Subsection (d), a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) A property owners' association may include or enforce a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) as adjudicated by a court:

(A) threatens the public health or safety; or

(B) violates a law;

(2) is located on property owned or maintained by the property owners' association;

(3) is located on property owned in common by the members of the property owners' association;

(4) is located in an area on the property owner's property other than:

(A) on the roof of the home or of another structure allowed under a dedicatory instrument; or

(B) in a fenced yard or patio owned and maintained by the property owner;

(5) if mounted on the roof of the home:

(A) extends higher than or beyond the roofline;

(B) is located in an area other than an area designated by the property owners' association, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the device if located in an area designated by the property owners' association;

(C) does not conform to the slope of the roof and has a top edge that is not parallel to the roofline; or

(D) has a frame, a support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace;

(6) if located in a fenced yard or patio, is taller than the fence line;

(7) as installed, voids material warranties; or

(8) was installed without prior approval by the property owners' association or by a committee created in a dedicatory instrument for such purposes that provides decisions within a reasonable period or within a period specified in the dedicatory instrument.

(e) A property owners' association or the association's architectural review committee may not withhold approval for installation of a solar energy device if the provisions of the dedicatory instruments to the extent authorized by Subsection (d) are met or exceeded, unless the association or committee, as applicable, determines in writing that placement of the device as proposed by the property owner constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. For purposes of making a determination under this subsection, the written approval of the proposed placement of the device by all property owners of adjoining property constitutes prima facie evidence that such a condition does not exist.

(f) During the development period for a development with fewer than 51 planned residential units, the declarant may prohibit or restrict a property owner from installing a solar energy device.

Added by Acts 2011, 82nd Leg., R.S., Ch. 939 (H.B. 362), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 126 (S.B. 1626), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 126 (S.B. 1626), Sec. 2, eff. September 1, 2015.

Sec. 202.011. REGULATION OF CERTAIN ROOFING MATERIALS. A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner who is otherwise authorized to install shingles on the roof of the owner's property from installing shingles that:

(1) are designed primarily to:

(A) be wind and hail resistant;

(B) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or

(C) provide solar generation capabilities; and

(2) when installed:

(A) resemble the shingles used or otherwise authorized for use on property in the subdivision;

(B) are more durable than and are of equal or superior quality to the shingles described by Paragraph (A); and

(C) match the aesthetics of the property surrounding the owner's property.

Added by Acts 2011, 82nd Leg., R.S., Ch. 939 (H.B. 362), Sec. 1, eff. June 17, 2011.

REGULATION OF DISPLAY OF POLITICAL SIGNS (259.002)

SECTION 3. Section 202.009, Property Code, is transferred to Chapter 259, Election Code, as added by this Act, redesignated as Section 259.002, Election Code, and amended to read as follows:

Sec. 259.002 REGULATION OF DISPLAY OF POLITICAL SIGNS BY PROPERTY OWNERS' ASSOCIATION.

(a) In this section, property owners' association" has the meaning assigned by Section 202.001, Property Code.

(b) Except as otherwise provided by this section, a property owner's association may not enforce or adopt a restrictive covenant that prohibits a property owner from displaying on the owner's property one or more signs advertising a candidate or measure for an election:

(1) on or after the 90th day before the date of the election to which the sign relates; or

(2) before the 10th day after that election date.

(c) This section does not prohibit the enforcement or adoption of a covenant that:

(1) requires a sign to be ground-mounted; or

(2) limits a property owner to displaying only one sign for each candidate or measure.

(d) This section does not prohibit the enforcement or adoption of a covenant that prohibits a sign that:

(1) contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping or nonstandard decorative component;

(2) is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object;

(3) includes the painting of architectural surfaces;

(4) threatens the public health or safety;

(5) is larger than four feet by six feet;

(6) violates a law;

(7) contains language, graphics, or any display that would be offensive to the ordinary person;

or

(8) is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.

(e) A property owners' association may remove a sign displayed in violation of a restrictive covenant permitted by this section.

Sec. 202.012. FLAG DISPLAY. (a) A property owners' association may not, except as provided in this section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

(1) the flag of the United States of America;

(2) the flag of the State of Texas; or

(3) an official or replica flag of any branch of the United States armed forces.

(b) A property owners' association may adopt or enforce reasonable dedicatory instrument provisions:

(1) that require:

(A) the flag of the United States be displayed in accordance with 4 U.S.C.

Sections 5-10;

(B) the flag of the State of Texas be displayed in accordance with Chapter

3100, Government Code;

(C) a flagpole attached to a dwelling or a freestanding flagpole be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;

(D) the display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record; and

(E) a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;

(2) that regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one flagpole per property that:

(A) is not more than 20 feet in height and, subject to applicable zoning ordinances, easements, and setbacks of record, is located in the front yard of the property; or

(B) is attached to any portion of a residential structure owned by the property owner and not maintained by the property owners' association;

(3) that govern the size of a displayed flag;

(4) that regulate the size, location, and intensity of any lights used to illuminate a displayed flag;

(5) that impose reasonable restrictions to abate noise caused by an external halyard of a flagpole; or

(6) that prohibit a property owner from locating a displayed flag or flagpole on property that is:

(A) owned or maintained by the property owners' association; or

(B) owned in common by the members of the association.

(c) A property owner who has a front yard and who otherwise complies with any permitted property owners' association regulations may elect to install a flagpole in accordance with either Subsection (b)(2)(A) or Subsection (b)(2)(B).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1028 (H.B. 2779), Sec. 1, eff. June 17, 2011.

Redesignated from Property Code, Section 202.011 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(40), eff. September 1, 2013.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1389 (H.B. 680), Sec. 2, eff. June 14, 2013.

Sec. 202.018. REGULATION OF DISPLAY OF CERTAIN RELIGIOUS ITEMS.

(a) Except as otherwise provided by this section, a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner or resident from displaying or affixing on the entry to the owner's or resident's dwelling one or more religious items the display of which is motivated by the owner's or resident's sincere religious belief.

(b) This section does not prohibit the enforcement or adoption of a covenant that, to the extent allowed by the constitution of this state and the United States, prohibits the display or affixing of a religious item on the entry to the owner's or resident's dwelling that:

(1) threatens the public health or safety;

(2) violates a law;

(3) contains language, graphics, or any display that is patently offensive to a passerby;

(4) is in a location other than the entry door or door frame or extends past the outer edge of the door frame of the owner's or resident's dwelling; or

(5) individually or in combination with each other religious item displayed or affixed on the entry door or door frame has a total size of greater than 25 square inches.

(c) Except as otherwise provided by this section, this section does not authorize an owner or resident to use a material or color for an entry door or door frame of the owner's or resident's dwelling or make an alteration to the entry door or door frame that is not authorized by the restrictive covenants governing the dwelling.

(d) A property owners' association may remove an item displayed in violation of a restrictive covenant permitted by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 263 (H.B. [1278](#)), Sec. 1, eff. June 17, 2011.

Sec. 202.019. STANDBY ELECTRIC GENERATORS.

(a) In this section, "standby electric generator" means a device that converts mechanical energy to electrical energy and is:

- (1) powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel, or hydrogen;
- (2) fully enclosed in an integral manufacturer-supplied sound attenuating enclosure;
- (3) connected to the main electrical panel of a residence by a manual or automatic transfer switch; and
- (4) rated for a generating capacity of not less than seven kilowatts.

(b) Except as provided by this section, a property owners' association may not adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from owning, operating, installing, or maintaining a permanently installed standby electric generator.

(c) A property owners' association may adopt or enforce any of the following dedicatory instrument provisions to regulate the operation and installation of standby electric generators:

(1) a dedicatory instrument provision that requires a standby electric generator to be installed and maintained in compliance with:

- (A) the manufacturer's specifications; and
- (B) applicable governmental health, safety, electrical, and building codes;

(2) a dedicatory instrument provision that requires all electrical, plumbing, and fuel line connections to be installed only by licensed contractors;

(3) a dedicatory instrument provision that requires all electrical connections to be installed in accordance with applicable governmental health, safety, electrical, and building codes;

(4) a dedicatory instrument provision that requires all natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections to be installed in accordance with applicable governmental health, safety, electrical, and building codes;

(5) a dedicatory instrument provision that requires all liquefied petroleum gas fuel line connections to be installed in accordance with rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical, and building codes;

(6) a dedicatory instrument provision that requires nonintegral standby electric generator fuel tanks to be installed and maintained to comply with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes;

(7) a dedicatory instrument provision that requires the standby electric generator and its electrical lines and fuel lines to be maintained in good condition;

(8) a dedicatory instrument provision that requires the repair, replacement, or removal of any deteriorated or unsafe component of a standby electric generator, including electrical or fuel lines;

(9) a dedicatory instrument provision that requires an owner to screen a standby electric generator if the standby electric generator is:

- (A) visible from the street faced by the dwelling;
- (B) located in an unfenced side or rear yard of a residence and is visible either from an adjoining residence or from adjoining property owned by the property owners' association; or
- (C) located in a side or rear yard fenced by a wrought iron or residential aluminum fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the property owners' association;

(10) a dedicatory instrument provision that sets reasonable times, consistent with the manufacturer's recommendations, for the periodic testing of a standby electric generator;

(11) a dedicatory instrument provision that prohibits the use of a standby electric generator to generate all or substantially all of the electrical power to a residence, except when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence;

(12) a dedicatory instrument provision that regulates the location of the standby electric generator; or

(13) a dedicatory instrument provision that prohibits an owner from locating a standby electric generator on property:

(A) owned or maintained by the property owners' association; or

(B) owned in common by the property owners' association members.

(d) A dedicatory instrument provision permitted by Subsection (c), if adopted, must be reasonably applied and enforced.

(e) A dedicatory instrument provision that regulates the location of a standby electric generator is unenforceable if:

(1) it increases the cost of installing the standby electric generator by more than 10 percent; or

(2) it increases the cost of installing and connecting the electrical and fuel lines for the standby electric generator by more than 20 percent.

(f) If a dedicatory instrument requires that the installation of a standby electric generator be approved before installation, approval may not be withheld if the proposed installation meets or exceeds the dedicatory instrument provisions permitted by Subsection (c).

(g) If a dedicatory instrument provision requires an owner to submit an application for approval of improvements located exterior to a residence, this section does not negate the requirement, but the information required to be submitted as part of the application for the installation of a standby electric generator may not be greater or more detailed than the application for any other improvement.

(h) In a hearing, action, or proceeding to determine whether a proposed or installed standby electric generator complies with the requirements of a dedicatory instrument provision permitted by Subsection (c), the party asserting noncompliance bears the burden of proof.

Added by Acts 2015, 84th Leg., R.S., Ch. 1014 (H.B. 939), Sec. 1, eff. June 19, 2015.

Sec. 202.020. REGULATION OF FIREARMS OR FIREARM AMMUNITION. A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting any person who is otherwise authorized from lawfully possessing, transporting, or storing a firearm, any part of a firearm, or firearm ammunition, as well as the otherwise lawful discharge of a firearm.

Added by Acts 2019, 86th Leg., R.S., Ch. 972 (S.B. 741), Sec. 1, eff. September 1, 2019.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 1027 (H.B. 234), Sec. 3

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 972 (S.B. 741), Sec. 1, see other Sec. 202.020.

Sec. 202.020. CERTAIN SALES OF BEVERAGES BY CHILDREN. (a) A property owners' association of a residential subdivision may not adopt or enforce a restrictive covenant that prohibits

or regulates, including by requiring a permit or fee, the occasional sale of lemonade or other nonalcoholic beverages from a stand on property located in the subdivision by an individual younger than 18 years of age who has the permission of a property owner in the subdivision for the sale.

(b) A property owners' association:

- (1) does not owe a duty of care to persons participating in a beverage sale described by Subsection (a); and
- (2) is not liable for any injury to persons participating in a beverage sale described by Subsection (a), except for willful or wanton acts or gross negligence of the association.

Added by Acts 2019, 86th Leg., R.S., Ch. 1027 (H.B. 234), Sec. 3, eff. September 1, 2019.

Sec. 209.016 REGULATION OF RESIDENTIAL LEASES OR RENTAL AGREEMENTS. (a) In this section, "sensitive personal information" means an individual's:

- (1) social security number;
- (2) driver's license number;
- (3) government-issued identification number; or
- (4) account, credit card, or debit card number.

(b) A property owners' association may not adopt or enforce a provision in a dedicatory instrument that:

(1) requires a lease or rental applicant or a tenant to be submitted to and approved for tenancy by the property owners' association; or

(2) requires the following information to be submitted to a property owners' association regarding a lease or rental applicant or current tenant:

(A) a consumer or credit report; or

(B) a lease or rental application submitted by the applicant, tenant, or that person's agent to the property owner or property owner's agent when applying for tenancy.

(c) If a copy of the lease or rental agreement is required by the property owners' association, any sensitive personal information may be redacted or otherwise made unreadable or indecipherable.

(d) Except as provided by Subsection (b), nothing in this section shall be construed to prohibit the adoption or enforcement of a provision in a dedicatory instrument establishing a restriction relating to occupancy or leasing.

Added by Acts 2015, 84th Leg., R.S., Ch. 1077 (H.B. 2489), Sec. 1, eff. June 19, 2015.