

CDCA Advisory Committee Recommendation

Agenda item: Home Businesses

Underlying need to address:

The committee will make recommendations and clarifications to manage home business operations. The Reservation and Restrictions of Circle "D" Country Acres were initially written in 1969 that do not reflect current technology or the ability to work from home in a non-disruptive way. The committee will offer clarifications as to the intent of the original R&R's by defining what businesses are and are not allowed to better apply the restrictions fairly to all members of the association.

Current statement: [Reference to current restriction can be found in General Restrictions #1]

"No noxious or offensive trade or activity shall be carried on upon any parcel nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood. No commercial activity of any kind shall be conducted on any parcel in the subdivision; "commercial activity" shall include without limitation the offering for sale of any product or service or manufacture or growth of any product, for the purpose of sale, without regard to whether such activities are conducted in or from residential dwellings or otherwise."

General discussion and understandings:

In reviewing the intent of the phrasing in the statement, this committee believes the following three tenants were the objective of the restriction.

- Limit/restrict commercial businesses from operating within the association.
- Limit the disruption to the community's peace that a company would introduce.
- Lastly, the inclusion of "...manufacture or growth of any product..." intends to prevent commercial assembly and farming practices within the community even if the product is sold elsewhere.

The committee feels that a wide array of acceptable home businesses should be allowed that would fall outside the framing of these three key understandings of the restriction. The committee would like to address these 3 points separately.

Limit/restrict commercial businesses from operating within the association.

The committee believes that no commercial businesses should be allowed. Our interpretation of that is no establishment of a storefront that is recognizable as such. The objective is to prevent more traffic, noise, and general disruption to the neighborhoods. Our guidelines to allow a business would include these restrictions:

- No creation of a storefront for the business.
- No hours of operation for the business.
- No additional parking can be created for the business.
- No signage can be erected on-site for the business.

Limit the disruption to the community's peace that a company could introduce.

The committee believes that any business that is allowed to operate in the community has to agree that they will not introduce adverse effects on their neighbor's quality of life. This would include:

- 1) Excessive noise – would be regulated by Bastrop county ordinance¹ and should be documented per ordinance.
- 2) Toxic smells – fumes from solvents, commercial livestock processing, etc.
- 3) Potential fire hazards
- 4) A significant increase in traffic
- 5) In general, the creation of an “eye-sore.”

Prevent commercial assembly and growing practices within the community even if the product is sold elsewhere

The committee interprets this as establishing commercial businesses that would build products or establishing large commercial farms or nurseries. These would be explicitly excluded from an operation to create the distinction for a home business that is not mass-producing items.

Businesses that would be allowed:

Businesses that would be allowed under this interpretation of the rules would include:

- Products and goods that are sold off-site but are not being mass-produced
- Internet Businesses
- Home Offices
- Professional Services
- Off-site Services
- Multi-Level-Marketing
- Instructional / Tutor
- Artist
- At-home daycare (requires state certification and adherence to their rules)
- Company supplied vehicles (owner/resident is issued a company vehicle)
- Company vehicles that the homeowner has for his business offering services off-site or long haul trucker. Note vehicles would have to be on the property and not on the roadside or in easements.

Businesses that would be excluded:

The standard of no commercial activity primarily pertains to not allowing any storefront at all. Beyond that, the following should be used as a guideline in determining which businesses should not be allowed to operate as they would directly violate the restriction. This is not meant to be a definitive list, and businesses not specifically excluded or approved should be reviewed:

- Hospitals / Clinics
- Multi-unit housing / apartments
- Gun Ranges
- Multi-Use Buildings
- Homes used solely for daycare
- Automotive / Motorcycle repair^a
- Machinery / Milling^a
- Hotels / Motels
- Commercial sand / gravel / cement businesses
- Commercial landscaping / greenhouses
- Sawmills
- Office Buildings
- Gas stations / Convenience stores
- RV parks
- Storage Facilities
- Scrap / Salvage Yards

^A Would not pertain to personal workshops / hobbies

Appendix

1) Texas Penal code

PENAL CODE

TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY CHAPTER 42. DISORDERLY CONDUCT AND RELATED OFFENSES

Sec. 42.01. DISORDERLY CONDUCT. (a) A person commits an offense if he intentionally or knowingly:

- (1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;
 - (2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;
 - (3) creates, by chemical means, a noxious and unreasonable odor in a public place;
 - (4) abuses or threatens a person in a public place in an obviously offensive manner;
 - (5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section [250.001](#), Local Government Code, or in or near a private residence that he has no right to occupy;
 - (6) fights with another in a public place;
 - (7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section [250.001](#), Local Government Code;
 - (8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;
 - (9) discharges a firearm on or across a public road;
 - (10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or
 - (11) for a lewd or unlawful purpose:
 - (A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;
 - (B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or
 - (C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.
- (a-1) For purposes of Subsection (a), the term "public place" includes a public school campus or the school grounds on which a public school is located.

(b) It is a defense to prosecution under Subsection (a)(4) that the actor had significant provocation for his abusive or threatening conduct.

(c) For purposes of this section:

(1) an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and

(2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.

PENDING