



Circle D Civic Association

111 N. Hasler Blvd, Rm 214, Bastrop, TX 78602-3984 • PO Box 852, Bastrop, TX 78602-0852
512.321.5272 • contactus@circledbastroptx.org • www.circledbastroptx.org

Compliance Procedures and Enforcement Policy

In accordance with Circle D Country Acres governing documents, these policies and procedures shall define how the Circle D Civic Association (the Association) will review reported complaints and act upon verified violations under the community's rules. The Board has adopted this policy to address situations where an owner, or owner's designated agent, has committed or is responsible for violating the deed restrictions or rules and regulations other than by failing to pay assessments or other sums due to the Association. An alternate process handles delinquency violations. This policy also covers situations where an owner or someone visiting the owner is responsible for, has damaged Association property.

The Board may vary from this policy on a case-by-case basis if the enforcement process meets state law requirements. Enforcement actions may include sending a Courtesy Warning Letter, sending Violation Notices, and/or setting fines at levels other than as indicated on the Standard Fine Schedule.

1. Reporting

- A. A perceived non-compliance of a deed restriction or rules and regulations can be reported to the Board, Architectural Control Committee (ACC), or Compliance Committee directly or via the Association office or Association's Office Manager by any Member utilizing any of the following means:
 - i) In-person by providing a written account of the complaint;
 - ii) An e-mail providing a written account of the complaint;
 - iii) A phone call followed up with a written account of the complaint;
 - iv) Access the electronic software and utilize the "General" section to log the complaint.
- B. The report will not be processed until a written statement has been received from the Member issuing the complaint or someone on their behalf.
- C. No anonymous reports will be accepted. All reports will be confidential.
- D. The Office Manager determines whether the report is incomplete or inaccurate.

2. Preliminary Review and Determination

- A. The Office Manager will enter the details of each complaint into the electronic software for tracking purposes.
- B. The Office Manager determines which committee will process the complaint.
 - i) Complaints related to any new home application or improvement application will be directed to the Architectural Control Committee (ACC).
 - ii) Complaints not related to ACC matters shall be assigned to the Compliance Committee (CC).
- C. The Office Manager will assign a Case Manager from the appropriate committee by rotation, assignment, or next available person and give the Case Manager all contact information for the respondent (the person against whom the formal complaint is made).
- D. If there is an e-mail on file for the respondent in the electronic software, an e-mail notification will be sent to them.



- E. The Office Manager sends the Complainant (person who turned in the complaint) an acknowledgment that the complaint has been received and is being researched by the appropriate committee.

3. Case Manager Activity

- A. **Contact and site review:** The designated Case Manager is responsible for the case from onset to conclusion and should visit the property to verify the complaint.

- i) If the matter involves a common area, the Case Manager should conduct an on-site investigation, document the issue, and take photographs. If it can be determined who caused the violation in the common area, the issue will be handled as a violation; refer to section B. *Determination of findings subsection iv Violation* and the Case Manager we will contact the Homeowner responsible.

- ii) The Case Manager should make a reasonable attempt to contact the owner before entering a property:

- (1) Attempt to contact the Homeowner via telephone and/or e-mail.

- (2) Go to the property and leave a hanger asking the owner to contact the office.

- (3) Exceptions:

- (a) The health and safety of property owners are in question.

- (b) Irreparable harm could be caused by not acting immediately.

- iii) After 14 days of trying to reach the Homeowner, exhausting all means of communication, the Office Manager will be instructed to send a certified letter with the same information in the first contact e-mail to notify the owner of record of the need to enter a property to verify a complaint.

- iv) If there is still no contact after 14 days of the confirmed receipt of the certified mail or the Homeowner refuses to allow the Case Manager on the property, the Case Manager may proceed to Violations.

- B. **Determination of findings:** When the Case Manager has arranged a site visit, they, or an assigned committee member, will visually inspect the property. They should take photographs, measurements, and notes of their findings.

- i) The Case Manager will gather the information and decide if the reported incident violates the restrictions.

- ii) All findings are entered into the electronic software, and the committee is notified of the findings. This provides oversight and audit on all cases. Based on the determination of the findings;

- iii) **No Violation:** If it is determined there is no violation, the Case Manager will direct the Office Manager to;

- (1) Enter into the electronic software the decision that there is no violation.

- (2) Mark the matter resolved.

- (3) Send a letter or e-mail to the Homeowner that no violation was found and that the case is closed. The letter or e-mail shall be added to the electronic file of the case.

iv) **Violation:** If the incident is determined to be a violation, a determination is made whether the violation is curable or uncurable. Curable violations are ongoing or otherwise can be remedied by affirmative action, whereas non-curable ones cannot. See Section 9 for definitions of uncurable violations.

(1) If the violation is designated as curable, the matter moves to Section 4, First Action for Curable Violations.

(2) If the violation is designated as uncurable, the matter moves to Section 7, 209 Violation Notice.

(3) The Office Manager will be instructed to record all findings in the electronic software.

4. **First Action for Curable Violations:**

A. The Case Manager instructs the Office Manager to send the first violation letter to the Homeowner via certified mail and first-class mail.

i) A statement that the period for compliance will be 30 days after the date the first-class letter is sent.

ii) Detailed information about what deed restriction, rule, or regulation is in violation, including any specific language to inform the violator as clearly as possible which part of the deed restriction, rule or regulation is in violation, and if possible, photos showing the violation.

iii) Instructions on how they can remedy the violation.

B. A copy of the letter shall be added to the electronic software and a copy of the certified delivery. If the Homeowner refuses the certified delivery, that will be documented as well.

C. The following requirements will be met in accordance with Section 209.006:

i) If the violation is curable and does not pose a threat to public health or safety, state a reasonable, specific date by which the owner may cure the violation and avoid any fine levied in the 209 Violation Notice;

ii) Inform the owner that they may have special rights or relief related to enforcement under federal law, including the Service Members Civil Relief Act; and

iii) Otherwise, comply with Section 209 of the Texas Property Code and state law.

D. The Case Manager continues to communicate with the Homeowner explaining the violation letter to ensure understanding of the timelines and ways to comply.

E. After 30 days, the Case Manager revisits the property to determine if the violation has been corrected. The Homeowner can inform the Case Manager at any time before the 30 days that the issue has been remedied and is ready for review.

i) If the violation has been corrected, the Case Manager adds new pictures and instructs the Office Manager to close the violation and send an acknowledgment that the issue is closed to the Homeowner.

ii) If the violation still exists, the Case Manager adds comments and new pictures in The electronic software and proceeds to the Second action for curable violations.

5. **Second Action for Curable Violations:**

A. The Case Manager instructs the Office Manager to send the second violation letter to the Homeowner via certified mail and first-class mail. The letter will contain;

- i) A statement that the period for compliance will be 14 days from the date of the Second Violation letter.
 - ii) Detailed information about what deed restriction, rule, or regulation is in violation, including any specific language to inform the violator as clearly as possible which part of the deed restriction, rule or regulation is in violation, and if possible, photos showing the violation;
 - iii) Instructions on how they can remedy the violation;
 - iv) Information about how the respondent can request a hearing with the CDCA Board;
 - v) A statement that the violation will be turned over to the CDCA Board to decide whether a fine will be issued, the potential maximum fines, and the case could also be referred to an attorney if not resolved.
- B. A copy of the letter shall be added to the electronic software and a copy of the certified delivery. If the Homeowner refuses the certified delivery, that will be documented as well.
- C. The following requirements will be met in accordance with Section 209.006:
- i) If the violation is curable and does not pose a threat to public health or safety, state a reasonable, specific date by which the owner may cure the violation and avoid any fine levied in the 209 Violation Notice.
 - ii) Inform the owner that he has a right to request a Board hearing to discuss the enforcement action on or before the 30th day after the notice was mailed to the owner;
 - iii) Inform the owner that they may have special rights or relief related to enforcement under federal law, including the Service Members Civil Relief.
 - iv) State the maximum amount of the fine that the Board could levy.
 - v) Inform the owner that the violation could also be referred to an attorney.
 - vi) Otherwise, comply with Section 209 of the Texas Property Code and state law.
- D. The Case Manager continues to communicate with the Homeowner explaining the violation letter to understand the timelines and ways to comply.
- E. After 14 days, The Case Manager visits the property to determine if the violation has been corrected. The Homeowner can inform the Case Manager at any time before the 14 days that the issue has been remedied.
- i) If the violation has been corrected, the Case Manager adds new pictures and instructs the Office Manager to close the violation and send an acknowledgment that the issue is closed to the Homeowner.
 - ii) If the violation still exists, the Case Manager adds comments and new pictures in The electronic software.

6. Failure to Resolve after second violation letter:

- A. If the property remains in violation after 14 days from the Second Violation Letter, the Case Manager can determine how quickly the matter is referred to the CDCA Board.

Considerations could include;

- i) Weather delaying resolution

- ii) Health/illness of Homeowner
- iii) Scheduling of 3rd party resources to resolve the issue, with proof of confirmed start date
- iv) Other issues determined as valid by the Case Manager and Committee

- B. When the Case Manager determines that the Homeowner is not complying with agreed-upon timelines, the Case Manager consults with his committee. They vote to refer the issue to the CDCA Board to determine fines or legal action.
- C. The Case Manager should have the Office Manager enter the committee vote into the electronic software and mark the matter unresolved.
- D. After the CDCA Board votes, they notify the Office Manager of their decision.
- E. The Office Manager then notifies the respondent of the Board's decision, a schedule of fines that will be assessed until the violation is corrected, or that the matter will be turned over to an attorney.
- F. If the matter is to be turned over to legal, the Office Manager creates a file of all documentation for this violation and sends it to the lawyer

7. Action for an Uncurable Violation:

- A. If a violation is determined to be uncurable per Section 9 below, the Board may, as allowed by the governing documents:
 - i) Levy a fine;
 - ii) Charge owner for damages
- B. Any such action shall be initiated by sending a 209 Violation Notice to the owner. The 209 Violation Notice shall:
 - i) Be in writing and sent certified mail to the most current owner address shown on the Association's records;
 - ii) Describe the violation or property damage at issue;
 - iii) State the amount of any property damage charge or fine that may be levied against the owner;
 - iv) Inform the owner that he has a right to request a Board hearing to discuss the enforcement action on or before the 30th day after the notice was mailed to the owner (see Section 11 below);
 - v) Inform the owner that /she will be responsible for attorney fees and costs incurred concerning the violation if the violation continues after a specific date; such fees and costs may be assessed to the owner's account after a hearing is held or, if a hearing is not requested, after the deadline for requesting a hearing has passed;
 - vi) Inform the owner that he/she may have special rights or relief related to enforcement under federal law, including the Service Members Civil Relief Act; and
 - vii) Otherwise, comply with Section 209 of the Texas Property Code and state law.

8. Subsequent Violation Notices for continuing or repeat violations:

- A. If an owner has been sent a 209 Violation Notice for a particular violation and the same violation continues, or a similar violation is committed within six months of the 209 Violation Notice, the Association may levy additional fines either with or without notice to

the owner. If it desires to send notice of additional fines, the Association shall do so through a Subsequent Violation Notice.

- B. A Subsequent Violation Notice may be of any form and sent in any manner, as by law, such notices are not required to comply with Section 209 of the Texas Property Code.

9. 209 Violation Notices — Curable vs. Uncurable Violations:

A. **Curable Violation.** Curable violations are ongoing or otherwise can be remedied by affirmative action. The following is a non-exhaustive list of curable violations:

- i) failing to submit plans to the ACC for review and approval before beginning work;
- ii) failing to construct improvements or modifications in accordance with approved plans and specifications;
- iii) utilizing undeveloped lots as a dumping ground or storage for rubbish;
- iv) the accumulation of trash, garbage, or other unsightly obstacles;
- v) installation of fencing without ACC approval;
- vi) Violation of restrictions and reservations required property setbacks for buildings and other appurtenances located on a lot.

B. **Uncurable Violation.** Uncurable violations include those that are not ongoing, involve conditions that otherwise cannot be remedied by affirmative action, and/or threaten public health or safety. The following is a non-exhaustive list of uncurable violations:

- i) failing to obtain ACC approval before removing protected trees;
- ii) failing to adhere to requirements and restrictions when using the common area;
- iii) failing to provide an on-site roll-off dumpster during construction of a new home;
- iv) failing to remove the accumulation of trash, garbage, or another unsightly obstacle during the construction of a new home;
- v) burning accumulated construction or other debris that causes noxious or offensive odors and pollutants. Note: This does not include the allowance of burning naturally occurring materials produced from a lot when clearing the site of trees and underbrush.

10. **Board hearings:** follow the 209 Board Hearing Policy procedures.

11. **Standard Fine Schedule.** Below is the Standard Fine Schedule for deed restriction violations. The Board may vary from this schedule on a case-by-case basis (i.e., set fines higher or lower than indicated below), so long as that decision is based upon the facts surrounding that particular violation. The Board also may change the fine amounts in this Standard Fine Schedule at any time by resolution, with no need to formally amend this Enforcement Policy,

A. Curable Violations.

- | | |
|------------------------------------|---|
| i) Courtesy Warning Notice: | No fine. |
| ii) 209 Violation Notice: | minimum \$25.00 fine |
| iii) Subsequent Violation Notices: | \$50.00 fine |
| | \$100.00 fine |
| | \$125.00 fine |
| | (Increases \$25.00 for each additional monthly notice). |

B. Uncurable Violations.

i) 209 Violation Notice:

\$50.00 fine; or
Property damage assessment.

ii) Subsequent Violation Notices:

\$75.00 fine;
\$100.00 fine;
\$125.00 fine;
(Increases \$25.00 for each additional notice).

Code of Conduct

Interaction with Association Members will be necessary for the investigation of violations. All Case Managers should observe the following rules:

1. All Association Members will be addressed respectfully and courteously.
2. The Case Manager will seek to discuss the issue and obtain commitments from the Member to address the issue.
3. If a Member has an issue or concern with the violation, they may submit a grievance in writing to the Board of Directors.
4. The Case Manager will provide the members with helpful tips, techniques, or alternatives to addressing their issues.
5. The Case Manager will be sympathetic to the Member and relinquish judgment to the full Compliance Committee, Architectural Control Committee, or Board of Directors.

CERTIFICATION

I, the undersigned, Gary Gagnon, Vice President of Circle D Civic Association, do hereby attest that at the board meeting of the Association held February 12, 2022, at which a quorum was established, this revised Compliance Procedures and Enforcement Policy was adopted by unanimous vote.

I, the undersigned, Gary Gagnon, acting as Vice President of Circle D Civic Association, have this day caused this document to be recorded in the Official Public Records of Bastrop County, Texas.

Executed this day 19 of APRIL, 2022



Gary Gagnon
Vice President, Circle D Civic Association

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF BASTROP

This instrument was acknowledged before me on April 19th, 2022, by Gary Gagnon, Vice President of Circle D Civic Association, a Texas non-profit corporation, on behalf of said corporation.



Notary Public of the State of Texas