

# Harrison County

# Zoning Administration

## Restrictive Covenants

### What is a restrictive covenant?

A covenant is a provision in a deed, limiting the use of property and prohibiting certain uses. It is a written promise or restriction on the use of land.

### Who creates restrictive covenants ?

Land developers normally create and use restrictive covenants when subdividing property for residential developments. A developer, after platting the subdivision into lots, blocks, and streets, will impose certain limitations on the use of the lots in the development

### Who is responsible for enforcement?

The responsibility to enforce restrictive covenants is upon the respective homeowners association or individual property owner as restrictive covenants in the county are parcel specific.

### What are some examples of restrictive covenants?

An example of a restrictive covenant is a promise not to develop the land for commercial uses. Restrictive covenants often stipulate the number of dwellings allowed per original lot (e.g. no further subdivision), construction to single-family dwellings with no detached outbuildings, set-back requirements, easements, and aesthetics, such as the re-painting of a home unless it will be the exact same color.

### Who is my homeowners association ?

The home owners association is comprised of all the people who own homes in the same development and it is those same people, and not local governments, who will enforce and uphold the restrictive covenants which limit and control the use of your real property.

### Do restrictive covenants expire?

Restrictive covenants “run with the land” meaning all future property owners may either enforce the covenant or be burdened by it. However, the covenant may expire over a specified period of time or renew itself automatically, dependent upon the developers original agreement and regulations .

### Can Harrison County officials issue a permit or variance to a restrictive covenant?

Harrison County will not knowingly issue a permit or variance that is a violation of the property owners restrictive covenants.

### What is the difference between a zoning regulation and a restrictive covenant?

A restrictive covenant differs from a zoning regulation in that the enforcement and creation of a covenant is a matter of contract and can be enforced by subdivision residents subject to the same covenants. A zoning regulation is enforced by Harrison County.

Restrictive covenants are created in compliance with homeowners association and respective developer’s regulations. Restrictive covenants are not directly governed by the Mississippi State Code or the County’s Zoning Ordinance.

### If a restrictive covenant and a zoning regulation coincide/ overlap or disagree, which one is correct to follow?

It is possible that zoning regulations and restrictive covenants overlap for example, in regards to the height of a building or side-yard requirements. For example, in the instance of setbacks, the County may prohibit construction of a dwelling within a certain distance from a rear, side or front property line, while covenants may allow it. In this instance the zoning law prevails and the property owner would not be allowed to build within the setback specified in the Zoning Ordinance.

Additionally, the Mississippi State Code also states when a conflict exists Zoning Ordinance and Restrictive Covenants, the provisions of the covenants must prevail if the provisions of the development agreement are more restrictive than the Zoning Ordinance. For example, if the Restrictive Covenants do not allow a manufactured home in a subdivision while the Zoning Ordinance would then the property owner could not site a manufactured home on the property.

### How can I find information on restrictive covenants subject to my home or a home I am interested in buying?

To find information on restrictive covenants for your home the primary source of information is the Harrison County Clerk’s office or the Chancery Clerks office. The Chancery Clerks website also has land records online. If you need information for a home you interested in buying the primary source of information is the developer, seller, or real estate agent.