

**DEER CREEK HOMEOWNERS' ASSOCIATION  
ARCHITECTURAL REVIEW COMMITTEE  
GUIDELINES  
FOR  
PROPERTY MAINTENANCE AND IMPROVEMENTS  
AND  
CONDUCT WITHIN PUBLIC AND COMMON AREAS**

**A. PURPOSE AND AUTHORITY**

1. The purpose of these Guidelines is to: a) establish rules, regulations, and standards for the modification, alteration, improvement, maintenance, and upkeep of properties; and b) establish standards of conduct for persons utilizing public and common areas within the jurisdiction of the Deer Creek Homeowners' Association (DCHA) consistent with existing Declarations, Articles, Bylaws, Covenants, Restrictions, and Guidelines.
2. The DCHA Board of Directors (Board), in accordance with Article VII of the Bylaws, has resolved to grant the Architectural Review Committee (ARC) the authority to establish and enforce the Guidelines contained herein.
3. These Guidelines exist in order to fulfill the Board's responsibility and obligation to residents and homeowners to:
  - a. preserve property values;
  - b. provide a safe and secure environment for residents;
  - c. maintain the esthetic appeal of the neighborhood;
  - d. protect the rights and interests of residents and homeowners;
  - e. cultivate a sense of community; and
  - f. satisfy legal and ethical obligations to adhere to the Association's governing documents and abide by all applicable federal, state, and local laws, regulations, and ordinances.
4. Every person, corporation, partnership, limited liability company, limited partnership, trust, association or other legal entity, who acquires any right, title, interest, or estate in or to any property in the Deer Creek subdivision is automatically a Member of the DCHA and is, by law, subject to all of the terms, conditions, and provisions of the Declarations, Articles, Bylaws, Covenants, Restrictions, Guidelines, and other aspects of the Association.
5. The ARC, with the prior approval of the Board, has the unrestricted discretion to establish, amend, or repeal any of the Guidelines established herein. The Board has the power to assess reasonable penalties against a Member for any violation of the Declaration, Articles, Bylaws, or Guidelines adopted by the Board. The Board, by the authority granted it under the Bylaws, is not obligated to seek the approval of the Members either to implement these Guidelines or assess any penalties for violations thereof.

## B. GUIDELINES

1. In accordance with the Declarations, Articles, and Bylaws of the DCHA and with the prior approval of the Board, the ARC has established the following Guidelines for the maintenance and upkeep of Members' properties and conduct within common areas, the violation of which may subject the Member to the penalties as described in Section C below.
  - a. **GARAGES AND OUTBUILDINGS:** No separate garages or outbuildings or auxiliary structures of any kind or nature shall be erected or allowed to occupy any portion of any lot without the prior written approval by the ARC. No metal storage buildings shall be allowed.
  - b. **NUISANCE:** Residents shall at all times act with a due regard for the safety, welfare, peace, and rights of individuals, residents, neighbors, and property owners. No noxious or offensive trade or activity shall be carried on or upon any lot, nor shall anything be done thereon which may be or may become an annoyance, disturbance, or nuisance to the neighbors or the neighborhood. The creation or making of loud, disturbing, unnecessary, or unnatural noises shall be avoided. Pedestrians and cyclists shall use headphones or earbuds when listening to music. Pedestrians shall not use the loudspeaker function when using a phone in a common area. *See Montgomery, Ala., Code §§ 12-31, 14-131 to 143, 18-171 (2020).*
  - c. **SIGNS:** No sign of any kind or nature, or advertising device of any kind or nature, shall be placed upon any part of any lot owned by any person or entity except as permitted herein or in accordance with applicable ARC Guidelines (Figures 1-3). Signs for yard or garage sales, lost animals, or businesses (other than real estate) are strictly prohibited.

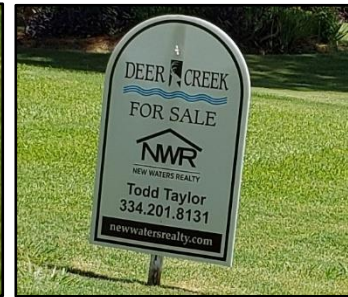
Figure 1 (non-compliant)



Figure 2 (non-compliant)



Figure 3 (compliant)



- d. **ANIMALS:** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, and other normal and common household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose, and provided that they are kept in reasonable numbers and under reasonable conditions so as not to create a nuisance and not to otherwise unreasonably disturb the neighbors or the neighborhood. All pets shall be leashed when in common areas. Residents with dogs shall take measures to ensure their dogs do not excessively bark between the hours of 9:00PM and 7:00AM. Residents shall pick up after their pets.
- e. **PLANTINGS, LANDSCAPING, AND OBSTRUCTIONS:** Trees, shrubs, all plantings, lawns, yards, landscaping, paved areas, and flowerbeds shall be well maintained. This Guideline

applies to front, back, and side yards as well as applicable alley ways and fence lines. “Well-maintained” means the following:

- 1) Lawns and all sodded areas shall be mowed, trimmed, edged, fertilized, watered, and seeded as needed. Lawns shall be regularly treated for and largely free of weeds (Figures 4-6). Dry or dead areas on the lawn shall be repaired. Anthills shall be promptly treated. Sidewalks and driveways shall be edged. Paved areas shall be periodically power washed to remove staining and discoloration. *See* Montgomery, Ala., Code §§ 12-61 (2020).

Figure 4 (non-compliant)



Figure 5 (non-compliant)



Figure 6 (compliant)



- 2) Trees shall be pruned as necessary to remove dead or dying branches, clear away obstructions, eliminate hazards, and enhance esthetic appeal (Figures 7-9).

Figure 7 (non-compliant)



Figure 8 (non-compliant)



Figure 9 (compliant)



- 3) Shrubs and bushes shall be regularly trimmed to remove dead or dying branches, clear away obstructions, eliminate hazards, and enhance esthetic appeal. Shrubs and bushes shall not excessively block windows (more than a third), sidewalks, or patios (Figures 10-12).

Figure 10 (non-compliant)

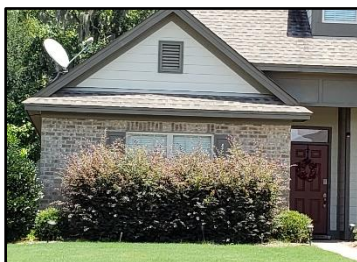


Figure 11 (non-compliant)



Figure 12 (compliant)





- 4) All landscaped areas and flowerbeds shall be free of weeds (Figures 13-14).

Figure 13 (non-compliant)



Figure 14 (compliant)



- 5) Grass clippings, trash, and other landscaping refuse should be placed on the open curb on the normal scheduled pick up day (i.e. Wednesday). No yard waste shall be left on the curb before 5:00pm on Tuesday or after 8:00pm on Wednesday.
- 6) Landscaping improvements, arbors, fences, pools, storage buildings, covered patios, and any such additions must be approved by the ARC, prior to installation. The Member may be directed to remove unauthorized installations, at Member's expense, if ARC approval is not obtained prior to installation.
- e. **OUTSIDE USES:** Boulders, rock gardens, bird baths, ponds, pools, lawn sculptures, artificial plantings, childrens' play equipment, basketball goals, outdoor kitchens, or the like, that are readily visible either from the street or by adjacent property owners, shall not be permitted without the written approval of the ARC.
- 1) No vegetable, herb, or similar garden shall be planted or maintained so as to be visible from the street or readily visible by adjacent property owners.
- 2) Play equipment, lawn furnishings, and cooking equipment (barbeques, grills, smokers, etc.) shall be located where it will have a minimum visual impact on adjacent properties.
- g. **GARAGES & CARPORTS:** The primary purpose of a garage is to provide residents with a secure place to park a vehicle, not to serve as a storage unit. Residents shall maintain their garages in a condition such that at least one vehicle can be securely parked in their garage. Garages and carports should open from side or rear unless otherwise approved by the ARC. Garage doors, automatic door openers, and service doors shall be maintained in a useful working condition and shall be kept closed when not in use.
- h. **VEHICLE USE & PARKING:** In addition to esthetic considerations, DCHA Covenants, Restrictions, and Guidelines regarding parking on private driveways and on public streets exist for important safety and security reasons and are binding on all residents and Members. The Board has the authority to implement guidelines that are more restrictive than city ordinances, but not less restrictive. DCHA Covenants, Restrictions, and Guidelines are in addition to and do not supplant city ordinances. Parking not in violation of a city ordinance can still be a violation of DCHA Covenants, Restrictions, and Guidelines.

- 1) Vehicle parking in alleys or on the street shall be limited to temporary parking of guest or resident vehicles (Figures 15-16). Parked vehicles shall not obstruct sidewalks, interfere with the ability of other residents to enter and exit their properties, or impede the flow of traffic. Vehicles parking in non-paved areas shall not be permitted in any circumstance. Vehicles parked in violation of these Guidelines may be towed at the direction of the Board, the ARC, or its designated representative, at the sole expense of the owner of such vehicle after notice has first been given.

Figure 15 (non-compliant)



Figure 16 (non-compliant)



- 2) Operation of Low Speed Vehicles (LSVs) shall be permitted within the confines of the Deer Creek subdivision provided they are issued with a license plate by the appropriate state agency and are operated in accordance with state motor vehicle laws. LSVs shall only be operated during daylight hours. LSVs and other motorized conveyances shall not be operated on any sidewalks. No one without a valid drivers' license shall be permitted to operate an LSV within the confines of the subdivision. *See Ala. Admin. Code 810-5-1-.238 (2016).*
- 3) Any person operating a bicycle on public streets shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state and shall obey the instructions of official traffic control signals, signs, and other control devices applicable to vehicles. Any person riding a bicycle upon a sidewalk shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian. *See Ala. Code §32-5A-260 to 286; Montgomery, Ala., Code § 27-301 to 307 (2020).*
- 4) Pedestrians shall use sidewalks, when available, at all times and shall not walk in the streets. *See Ala. Code § 32-5A-215 (1975); Montgomery, Ala., Code § 27-343 (2020).*
- 5) No boat, boat trailer, house trailer, horse trailer, trailer, camper, motor home or any similar items shall be located on or at any property for a period of time in excess of twenty-four (24) hours unless stored in a garage.
  - i. **SWIMMING POOL EQUIPMENT:** Swimming pool equipment and housing must be underground or placed in walled-in or landscaped areas so as not to be visible from the street or any adjoining property.
  - j. **VEHICLE MAINTENANCE AND REPAIR:** No vehicle maintenance or repair shall be performed on any vehicles upon any portions of the subject property, unless performed in a garage, except in an emergency situation. All emergency repairs to disabled vehicles must be

completed within 24 hours from its immobilization (Figures 17-18). *See* Montgomery, Ala., Code § 12-36 (2020).

Figure 17 (non-compliant)



Figure 18 (non-compliant)



k. ACCUMULATION OF REFUSE:

- 1) No lumber, metals, bulk materials, refuse, or trash shall be kept, stored or allowed to accumulate on any part of the property, except building materials used during the course of original construction of any approved structure, or any approved renovation, repair, or reconstruction. *See* Montgomery, Ala., Code §§ 12-37, 25-38 to 40 (2020).

- 2) Trash containers shall only be placed in the open on such days that normal pickup is to be made (i.e. Tuesday & Friday) and at such place on the property as to provide access to persons making such pick up. Trash containers shall not be visible from the street other than on pickup day. *See* Montgomery, Ala., Code § 25-35(a) (2020).

1. AIR CONDITIONING UNITS AND SOLAR COLLECTORS: No wall or window air conditioning units nor solar collectors shall be permitted except with the prior written approval of the ARC.

- m. PIPES AND CLOTHESLINES: No water pipes, gas pipes, sewer pipes, drainage pipes, or clotheslines may be installed or maintained on the property so as to be visible from adjoining property or public view, except hoses and movable pipes used for temporary irrigation purposes.

- n. MACHINERY: No machinery shall be placed on or operated upon any portion of the subject property except such machinery as is normal and usual in the maintenance of a private residence.

- o. MAILBOXES: All mailboxes and mailbox posts shall conform to the common design approved by the ARC. The lot owner shall install and maintain said mailbox in appropriate condition and repair, free of any rust or damage, with original color scheme being maintained thereon, as required by the ARC. No further inscription, painting, ornamentation, or artistry shall be allowed. All numbers must be permanently attached to the front of the mailbox (Figures 19-21).



Figure 19 (non-compliant)



Figure 20 (non-compliant)



Figure 21 (compliant)



- p. **FENCING:** No fence or walls of any kind shall be erected without the approval of the ARC. No fence or wall shall be erected or placed on any lot nearer to any street than the minimum setback lines of said lot unless approved by the ARC. All fences—whether painted, stained, or bare wood—shall be well maintained. Leaning or sagging fences shall be repaired. Rotting, splitting, or cracking boards shall be replaced (Figures 22-23).

Figure 22 (non-compliant)



Figure 23 (compliant)



- q. **ANTENNAS AND DISHES:** No visible ham radios, radio transmission equipment, television antennas, radio antennas, television satellite dishes, or wireless communication dishes shall be permitted on the property unless prior approval is obtained from the ARC.

## C. ENFORCEMENT

1. Although the DCHA Bylaws and Covenants grant the ARC the unrestricted authority to enforce the provisions of the Declarations, Covenants, and Guidelines in any manner it deems appropriate and consistent with the law, it is the intent of the ARC to use that authority judiciously and in an equitable and impartial manner. The ARC will only exercise its authority when a Member has demonstrated a disregard for the rules and other attempts at resolution have failed. It is the intent of the ARC to use these enforcement procedures as a constructive, rather than retributive, tool to build a positive sense of community, enhance safety and security, and improve residents' quality of life.

2. Any violation of a Guideline specified in Section B may be reported by any individual to the staff at the DCHA main office. The individual reporting the violation shall provide the staff with sufficient information (e.g. time/date, location/address, description of violation, etc.) for them to make a determination as to the validity of the violation. Individuals reporting violations are encouraged to include photographs of the violation along with their report.
3. The office staff or other authorized agent of the DCHA will investigate the reported violation, take photographs of the violation, and make a recommendation to the ARC or its designated representative for enforcement. The recommendation shall state what, if any, prior resolution efforts have been attempted.
4. Upon review of the violation report and the recommendation of the investigator, the ARC or its representative shall determine whether to pursue enforcement measures. The decisionmaker shall consider the particular facts and circumstances of each individual case before making a decision. Notwithstanding the particularities of each case, the decisionmaker shall ensure any action taken is consistent with and proportionate to previous enforcement actions. Measures taken shall depend on the nature of the violation as described below.
  - a. **PERIODIC VIOLATION:** A periodic violation is a violation of a Section B Guideline that can be immediately corrected (e.g. trashcan visible from street, car parked in non-paved area, non-compliant sign in front yard).
    - 1) A Member guilty of a periodic violation shall be warned, via letter, that the ARC has determined, by sufficient evidence, that the Member has violated a Section B Guideline and is hereby warned that any future violation of the same Section B Guideline shall result, without further warning, in the imposition of a \$25 fine. Each subsequent violation shall result an additional \$25 fine.
  - b. **CHRONIC VIOLATION:** A chronic violation is a violation of a Section B Guideline that would take the homeowner several days or weeks to correct (e.g. weeds in the lawn, a dead tree needing removal, improperly erected outbuilding).
    - 1) A Member guilty of a chronic violation shall be warned, via letter, that the ARC has determined, by sufficient evidence, that the Member has violated a Section B Guideline and is hereby warned that the Member has seven (7) days from the date of the letter to either correct the violation or provide proof that steps have been taken to have the violation corrected within fourteen (14) days. If the violation is not corrected within the established timeline, a \$25 fine shall be assessed against the Member. The fine shall accrue at a rate of \$25 per week until the violation is corrected.
  - c. **REPEAT VIOLATION:** A repeat violation is a chronic violation that the member has already been warned about, the Member had previously corrected, but is again found in violation of.
    - 1) A member guilty of a repeat violation shall be informed, via letter, that the ARC has determined, by sufficient evidence, that the member has violated a Section B Guideline that the Member has been previously found by the ARC to be in violation of. Consequently, the



Member shall be assessed a \$25 fine and the fine shall accrue at a rate of \$25 per week until the violation is corrected.

5. Members with an outstanding fine balance shall be sent a monthly itemized statement. The ARC may, in its sole discretion and in accordance with applicable laws, place a lien on a Member's property, turn the unpaid balance over to a collection agency, or initiate an action in law or equity. The ARC shall be entitled to recover its costs and expenses in connection with such litigation, including, but not limited to, reasonable attorneys' fees, costs and expenses, which may be awarded by the court before whom such litigation is brought.
6. Members may appeal any decision of the ARC pertaining to these procedures. To initiate an appeal, the Member shall submit a written statement of the reasons and justification for the appeal within fourteen (14) days of the date of the violation letter. The letter shall state whether the Member wishes to be heard in-person by the Board and whether the Member shall be represented by counsel. If the Member requests an in-person hearing, the Board shall set a hearing date within ten (10) days of receipt of the notice of appeal and give at least ten (10) days' notice of the hearing date. The Board shall establish rules for the conduct of the hearing. The Board shall hear testimony and take evidence. The Board shall render a decision and inform the Member, via letter, within ten (10) days of the hearing.
7. Notwithstanding the power of the Board to hear appeals, neither the ARC nor the Board shall grant any waivers to any Section B Guidelines.
8. The ARC or its designated representative may report any violation, that is also a violation of a city ordinance, to the appropriate municipal authority in addition to or in lieu of the above measures.
9. No Member or its tenants with an outstanding violation or unpaid fee, fine, or assessment shall be eligible to use Deer Creek facilities (clubhouse, pool, tennis courts, etc.) or be eligible for Yard of the Month.