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# CRESTVIEW NEIGHBORHOOD ASSOCIATION NEWSLETTER

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MARCH 2025

## CNA's March Meeting - Why Your Deed Restrictions Are Important

If you wouldn't mind or would welcome having an apartment complex, a convenience store, a late night restaurant or other business that generates high volume traffic and parking demand, then read no farther. Likewise, if you have no concerns about flooding, reduced safety, loss of tree canopy, environmental degradation, heat-island effect, etc, then your time would be better spent elsewhere. However, the focus of this month's meeting will be on maintaining the quality of life in our neighborhood, specifically through defense of our property deed restrictions that were set in place to accomplish that goal.

As our guest speaker, Allan McMurtry, former president of the Allandale Neighborhood Association, will discuss how recent changes the city council has made to the zoning code have brought us 1800 sq ft lots, 5' or less of set-backs from the front and side lot lines, no requirement for parking, no limits on the number of occupants in a dwelling, up to three stories in height, triplexes, elimination of single-family and duplex zoning, transit with eminent domain authority, and refusal to allow neighborhoods to remain as owners contractually agreed to. Further, Mr. McMurtry will explain that one of the few ways to stop the potential problems resulting from overbuilding is to enforce deed restrictions.

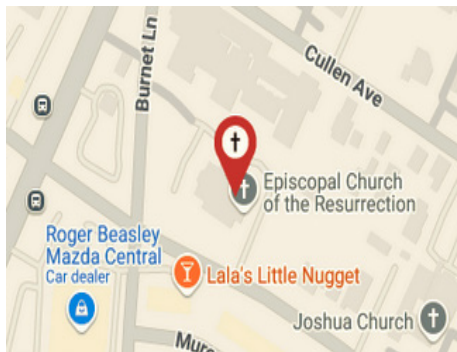
At the meeting, he'll go over the process in detail. Allandale Oaks is having good luck in getting builders to comply with the deed restrictions. Builders are required by the Austin permit process to have read the restrictions. They have to check a box when applying for a building permit. If the builder is in violation, Allandale residents reach out by registered letter and a phone call.

Please come to this meeting if you would like to learn more about how enforcing deed restrictions can help maintain the character of our neighborhood.

**When:** Monday, March 10th at 7 pm

**Where:**

Episcopal Church of the Resurrection, 2200 Justin Lane (Note: the meeting will be held in the Chapel which is in the main building along with the sanctuary.)



## A Primer on Deed Restrictions

The Austin Bulldog recently published an interesting and informative article about deed restrictions, part of which highlighted our guest speaker, Allan McMurtry. Fol-



lowing are excerpts from that article. The original article can be read at <https://theaustinbulldog.org/neighborhoods-must-litigate-to-defend-deed-restrictions-and-not-all-can-afford-it/>.

Allan McMurtry first got involved in 1977, when the since-relocated Allendale Baptist Church wanted to expand. They began buying up houses around their property and tearing them down, while also petitioning to close off a connecting street. Citing deed restrictions that limited the church's ability to build beyond their main building, a nearby couple filed a lawsuit to challenge the construction. Although McMurtry lived up the road a bit, he was concerned for his neighbors and offered to help. "We found a lawyer and started learning about deeds," he said. "After the builders read the deed restrictions, they decided to modify what they were doing—which I appreciated very much."

Deeds are private covenants built into individual properties that dictate what homeowners can—and can't—do with their properties. Some common restrictions are as benign as landscaping, while others can specifically state how many structures are allowed to be built on the land and their sizes. Original deed restrictions come with the land and cannot be removed or changed unless ruled by a court to be abandoned or obsolete or there is specific language that will expire after a certain amount of time. A buyer must, in effect, agree to follow these restrictions when purchasing the property.

In Texas, those deed documents may have been passed down from owner to owner for almost a century. Deeds cover one neighborhood or subdivision, each with its own unique sets of rules and regulations and can sometimes even vary from lot to lot.

Being that real estate transactions are private contracts, the city does not enforce deed restrictions. If a homeowner discovers an issue that violates the covenant and does not have a neighborhood association to aid in enforcement, that individual must hire a lawyer and take the complaint to the courtroom. According to the City of Austin's website, "A

*See Deed Restrictions continued on page 2*

# CRESTVIEW

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CNA General Meetings are held the second  
Monday of every month at 7:00 PM at the  
Episcopal Church of the Resurrection Chapel  
2200 Justin Lane

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### Episcopal Church of the Resurrection

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Up Coming Events:

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Sundays 3/9 - 4/6

Holy Week 4/13 - 4/19

Easter Sunday 4/20 with an  
Easter Egg Hunt  
following the service for kids



*Deed Restrictions continued from page 1*

deed restriction that is enforceable now should continue to be enforceable, regardless of changes to City zoning regulations.” The city cannot prevent landowners from developing property based on a deed restriction.

Austin did recently update its permit application form to require that applicants acknowledge any deed restrictions or covenants on the property and recognize that they are “responsible for any conflicts between the property-specific information and the request for the proposed development.”

When a property is sold and goes through the title process, all parties have access to the covenants and restrictions including the buyer, seller, title insurer, and lender. This is true for both residential and commercial development.

Approved as a bold response to the housing shortage in Austin, the City Council passed the Housing Options for Mobility and Equity (HOME) on December 7, 2024. Meant as an ambitious effort to increase density within the urban core of the city, the ordinance made several changes to the land use zoning code including lowering the minimum lot size from 5,750 square feet to 1,800. This made it possible for developers to build multiple units on lots formerly zoned for a single residence.



So far, the city has only approved around 200 of these kinds of projects, which include duplexes, triplexes and even fourplexes, as well as condo regimes and multi-unit apartments. While the changes affect building regulations across the city, some neighborhoods have deed restrictions that control new development.

According to a 1983 report published by the Texas A&M Real Estate Center, when deed restrictions and zoning ordinances are imposed on the same geographical area, the more restrictive of the two prevails. For instance, a city that zones a property as commercial cannot override the developer’s deed restrictions that made the subdivision exclusively residential. In the case of ambiguous deed restrictions, priority will always be given to the homeowner and/or associations defending those covenants.

Prior to 1987, there was some question as to whether or not an association representing a subdivision or neighborhood could enforce deed restrictions. A change to the Texas Property Code added Section 202.004 that year, which states, “A property owners’ association or other representative designated by an owner of real property may initiate, defend, or intervene in litigation or any administrative proceeding affecting the enforcement of a restrictive covenant or the protection, preservation, or operation of the property covered by the dedicatory instrument.”

As a housing advocate for his subdivision during the public discussions before HOME was passed, newly elected District 10 Council Member Marc Duchon testified in favor of a system like what exists in Houston. Although that city has no zoning laws, the city attorney enforces deed restrictions with a dedicated Deed Restriction Enforcement Team. Austin leaves it up to the individual homeowners and neighborhood associations to challenge development that violates their deed covenants, which Duchon described as “backwards.”

“For a developer with tremendous financial upside, it could absolutely be worth the risk to push ahead with a project that violates deed restrictions,” Duchon said. “An environment where residents are forced to combat developers to protect their homes or neighborhoods clearly favors those with deeper pockets.”

(Bill) Aleshire also supports Houston’s approach, which allows homeowners to file a complaint regarding a violation of covenants and restrictions and will enforce if the complaint is valid. “That should be Austin,” Aleshire said. “There’s no government agency in Austin that respects and enforces the legitimate covenants and restrictions.”

*See Deed Restrictions continued on page 3*

Aleshire goes one step further, claiming the city could be opening itself up to potential lawsuits in the future. "They're not just ignoring covenants and restrictions, they are actively encouraging people to apply to the city to violate those covenants and restrictions," he said. "They've become kind of a co-conspirator with developers that are violating the standards and deed restrictions that came along with the purchase of the property."

In the comments section following the article former County Judge and attorney Bill Aleshire wrote the following:

"Finally, there is no legal reason whatsoever—despite bad advice from the Austin City Attorney—that the City Council cannot adopt policies that refuse to approve subdivision, zoning, or building permits that violate legitimate deed restrictions, recorded in the County Clerk's property records. But that would require having a Mayor and Council who were not at war with established Austin neighborhoods from all areas of the City, EAST, SOUTH, WEST, and NORTH."

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## City of Austin Budget Town Hall Meeting

Austinites are invited to "Your Budget, Your Priorities: Community Conversations with T.C. Broadnax," a series of town hall meetings hosted City Manager T.C Broadnax designed to gather community input on City budget priorities. Broadnax will also discuss the process and the challenges of drafting the City's proposed budget. In the spring, City staff will begin identifying both City and community needs while drafting the City Manager's proposed budget, which he presents to City Council in mid-July. After review, analysis and amendments, the Austin City Council adopts the City's budget in mid-August. Several meetings are scheduled but the meeting closest to Crestview will be held on Thursday, April 3 at 6:30 pm at the Northwest Recreation Center at 2913 Northland Drive.

Those unable to attend the community conversations can provide their feedback by visiting [austintexas.gov/budget](http://austintexas.gov/budget). A survey will be available starting Monday, February 24.

## Free Income Tax Help Available

Prosper Tax Help will be providing free tax help for low-income families and individuals in Austin this year. Currently and until the filing deadline on April 15th this year, their IRS-certified tax preparers will be providing free tax preparation at several sites in Austin and Round Rock by appointment. Their closest location to Crestview is at 5900 Airport Blvd. For more information and to set up an appointment, go to [www.prospertaxhelp.org](http://www.prospertaxhelp.org).

**Eligibility:** To qualify for Prosper Tax Help, your 2024 annual income must be less than \$60,000 if you are a single filer and below \$85,000 if you have a household of 2-4 people. The annual limit goes up by \$5,000 for each additional household member (e.g., \$90,000 for a household of 5).

For your appointment, you must bring:

- Photo ID for you and your spouse (if applicable)
- Social security card (or ITIN letter) for everyone on the tax return
- All tax documents (W-2, 1099, 1095-A, etc.) and bank information.

If you have questions about Prosper Tax Help or need help scheduling an appointment, please call 211.



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## City Council to Consider Removal of Drainage Review for Development

At their March 6th Meeting, the city council will consider new ordinances (Planning Commission and staff versions) that will allow developments of 5 to 16 residential units on subdivided 1.5 acre or smaller lots to not comply with standard multi-family drainage requirements if the developer says that the stormwater runoff will be discharged into an existing storm drainage system or the right-of-way. Lot-to-lot flooding is a concern of the Crestview Neighborhood. The city of Austin staff report says: "Staff does not recommend eliminating all drainage review for such a broad category of development because the result-



ing runoff could negatively impact surrounding residents by increasing instances of lot-to-lot flooding and, for projects exceeding one acre, strain the capacity of local drainage systems. Additionally, staff believes the Planning Commission proposal would result in a lower level of drainage protection in Austin than any other major Texas city."

## Proposed Changes for Short Term Rental Rules Will Discontinue Limitations

In 2016, the council enacted rules that would have required the city to, over time, stop licensing so-called Type 2 short-term rentals (STRs) where owners rent out the entire house as opposed to a bedroom. However, the proposed rules currently under consideration would eliminate most limitations; specifically allowing STRs on any and all lots.

Neighborhood and housing advocates have raised the following concerns:

- The Council's STR proposal permits an STR on every residential lot. Each STR eliminates a home for an Austin family or resident.
- The Council's STR proposal prioritizes the interests of investors, STR platforms and tourists over the interests of Austinites who live and work here and want to raise their families in a residential neighborhood.
- Many Council members ran on a policy of increasing housing in the city of Austin. This STR proposal undermines that policy and violates campaign promises by converting homes into micro-hotels.
- Staff's materials suggest that the proposal is necessary to comply with recent court decisions, but lawyers say those cases actually leave the City options that the City isn't utilizing to limit the number of future STRs.
- The ordinance works hard to collect hotel occupancy taxes and proposes steps to make operators more responsive which are worthy goals but we need a greater emphasis on preserving the availability of existing housing for residents.
- The Council needs to postpone action on the STR proposal and return with a new proposal that puts a cap on future STRs and preserves our homes for families.

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## In Memoriam

### Richard Giro

Richard M. Giro, Jr. passed away on December 3, 2024. He was born in New Orleans, Louisiana. He spent most of his adult life working for the United States Postal Service. For many years after his retirement, Richard's Snowball stand at the Crestview Shopping Center was a fixture in the neighborhood. His Snowballs were legendary – and the best in Austin – because of his craftsmanship. His snowballs weren't



just some juice diluting the ice in a cup – not by a long shot. Following a long Louisiana tradition, Richard would boil the syrup so that the flavor was unbelievably rich, and he used a unique ice shaving machine that produced just the right sliver of ice to

maintain the flavor all the way to the last sip. But that's not all. Richard was such a charismatic person that it was a joy just to visit with him as he prepared your snowball, made with your favorite flavor. And when he moved to Bastrop, it was worth the drive just to visit and savor his heavenly creations.

He created his own Beatitude which he used often, "Blessed are the flexible, for they shall not get bent out of shape." He was an accomplished singer and dancer, an excellent bowler, a racecar driver and he coached kids. Most of all, Richard was full of life and loved his God, his family, his work, his New Orleans culture, and anyone he happened to meet.

- By Chip Harris, Newsletter Editor.

Read Richard's obituary here:

<https://www.marrsjonesnewby.com/obituaries/richard-giro-snowballsnowcone-man>

### Walter Troutman

(Editor's note: Walter was a longtime Crestview resident and will be sorely missed by his family, friends and neighbors. Below is an excerpt from his obituary. Read the entire obituary here: <https://www.dingitymemorial.com/obituaries/pflugerville-tx/walter-troutman-12246508>.)

Walter Bacon Troutman, 85, passed away on February 13, 2025. He was born on January 4, 1940, in Austin, Texas. Walter graduated from McCallum High School before enlisting in the Marine Corps in 1957.



For over 45 years, Walter worked as a professional electrician, dedicating himself to his craft. He had a deep passion for his trade. Outside of work, Walter could often be found singing around the house or savoring a good Dan's Hamburger—simple joys that brought him happiness throughout his life. Over the years he told many stories about the coast, the Marines, and loving the ocean.

But his true passion in later years was his grandchildren. He cherished every moment with them, from dressing up for Halloween to attending ballgames and ensuring he never missed a birthday, Christmas, or any special event. He even endured a six-hour car ride to Lubbock Texas, when he was 80 years old, to be there for the birth of his great-grandson.

Walter's weekends were often filled with music, as he would move the coffee table aside to dance with his beloved wife, to old country and western songs. Walter's sense of humor was unmatched, and his quick wit and stubbornness made him unforgettable. His presence filled every room, he had the ability to make everyone laugh, always leaving a lasting impression. He never met a stranger.



### Dan Walker

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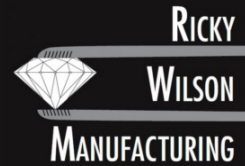
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