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Zoning rules altered; Ordinance gives 'teeth' to neighborhood covenants

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Madison is giving some muscle to homeowners' associations having trouble with members who won't abide by neighborhood standards.

The Board of Aldermen recently amended the zoning ordinance that allows the city to help homeowners' groups enforce restrictive covenants in their subdivisions. The change in city law goes into effect in early October. Without the new law, the city could not step in to help enforce covenants unless the offending homeowner was violating city zoning laws.

"We've already had several homeowners' associations say this will put teeth in it (covenants)," Alderman Patricia Peeler said. "We're here to help the associations."

The new ordinance allows associations to file complaints in municipal court for property violations of neighborhood covenants, city attorney John Hedglin said. The move allows the city to expedite action on enforcing covenants and saves the neighborhood groups' attorneys' fees.

Without the new city ordinance, associations are forced to place liens on offenders' properties or hire lawyers to take matters to Madison County Chancery Court for a judge to decide who's in the right.

Restrictive covenants, specific to each neighborhood, provide detailed rules about what homeowners are and are not allowed to do with their property. Covenants deal with a variety of issues, some unique to a particular neighborhood. Issues covered by covenants could include maintenance of yards and houses, the specific type of mailbox required, types of fences allowed or other issues that can affect property values.

"The mayor and the aldermen had a strong desire to assist homeowners' associations," Hedglin said.

"We found out some neighborhood associations were spending a lot of time trying to process violators," Peeler said. "This allows the city to step in and give support to get the violations processed in a timely manner."

Nell Tharp, president of the Stonegate homeowners' group, said the city's help is welcome. Her association has never had to take a homeowner to court over a violation of its covenants but has come close, she said.

"It's nice to have the backing of the city so we're not floundering around by ourselves," Tharp said.

Covenants are important because they keep up the standards of the neighborhood and maintain property values, she said. Stonegate's covenants address issues such as not allowing farm equipment on property, keeping vehicles larger than three-quarters of a ton on property, running businesses out of homes or renting out apartments.

"For the most part, everybody cooperates with them," Tharp said.

Hedglin said the city will be able to assist an association after the group has notified the homeowner violating the covenants and documented the offense and the steps it has taken. Someone authorized by the homeowners' association has to make the complaint in city court and has to provide the city with a certified copy of the subdivision's covenants. Covenants are on file in Chancery Court.

A fine has not yet been set for those persons judged to be in violation of covenants, Hedglin said.

The new city ordinance does not remove an association's authority to challenge the offender in Chancery Court.

Madison County does not have a means for enforcing covenants in its subdivisions, but the Board of Supervisors plans to look at what the city is doing. Board President Tim Johnson said he wants the supervisors to discuss the issue at their Oct. 2 meeting.

"I know the situations there are in some neighborhoods. The homeowners' associations don't have the money to enforce covenants," Johnson said. "Covenants need to be enforced and kept strong so they consistently keep property values up."