

MARKUP #1 ->

Type of Home	Minimum Square Footage	Lake Lots
Ranch Style	1800 square feet	2000 square feet
2—story	2200 square feet	2400 square feet

Other style homes square feet area to be determined by Devonshire Pointe Section One, Section Two developers or the architectural committee, Architectural Control shall apply to all structures. All fireplace chimneys exposed shall be of masonry exterior (see Paragraph #2).

B. GARAGES All dwellings must have a full-size attached garage which is capable of storing at least two (2) automobiles but not to exceed space for three (3) automobiles.

4. BUILDING LOCATION No building shall be located on any lot nearer to the right-of—way line than the minimum building setback lines as shown on the recorded Plat. No building shall be located nearer than eight (8) feet to any side lot line and having a total combined width of two (2) side yards of not less than twenty (20) feet. No dwelling shall be located closer than forty (40) feet to any rear lot line. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of the building; provided, however, that this shall be not construed so as to permit any portion of- a building on a lot to encroach upon another lot, nor violate any building code.
5. EASEMENTS There are strips of ground variable in width, as shown on this Plat, and marked “Easement reserved for use as roads and for the use of mains, poles, ducts, lines and wires, overland drainage flows subject at all times to the proper authorities and to the easement herein reserved. No permanent structures shall be erected or maintained upon said strip of land except as noted in paragraph 6, regarding screening of non- access easements. No changes shall be made in the grading of any lot areas used as drainage swales as initially provided which would alter the flow of the overland storm drainage runoff, but owners of lots in this sub-division shall take their titles subject to the rights of the public utilities. Furthermore, any utility company, in setting utility poles, shall have the right to set anchor poles at any change of direction of their lines. Such anchor poles may be set on any lot line outside the easement and not more than ten (10) feet from the rear line of any lot. All utility pedestals and transformers shall be erected on easements so provided.
6. PROTECTIVE SCREENING Protective screening areas are established as shown on the recorded Plat and are noted as “non—access easements”. Except as otherwise provided herein regarding street intersections under “Sight Distance at Intersections”, planting shall be retained and maintained throughout the entire length of areas by the owner or owners of the lots at their own expense to form an effective screen for the protection of the residential area. No building or structure, except a screen fence or landscaping or wall or Utilities or drainage facilities, shall be placed or permitted to remain in such areas. No vehicular access over the area shall be permitted except for the purpose of installation and maintenance of screening, utilities and drainage facilities. In addition, on all lots, no screen planting over thirty—six (36) inches high shall be permitted between the building setback line and front lot line. Provided, further, that the only perimeter fencing permitted shall be a split rail (two [2] rails high, not to exceed four (4) feet high) as used by the developers throughout the addition or privacy fence of not more than six (6) feet and must conform to present architectural standards as set by the style of home thereon built, unless a variance from this fence requirement shall have been approved in writing by the Devonshire Pointe Section One, Section Two developer.
7. NUISANCES No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance in the neighborhood.
8. PROHIBITED STRUCTURES No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. Above—ground swimming pools are prohibited. In—ground pools shall be permitted when a privacy fence is installed and blended with the established home.
9. DRIVEWAYS No stone or cinder driveways shall be permitted. All driveways are to be a minimum of sixteen (16) feet wide and must be constructed of asphalt or concrete. If constructed of asphalt, the depth of the asphalt shall be at least three (3) inches thick. If constructed of concrete, the driveway shall be at least four (4) inches thick. Circular drives in front of homes (if any) shall be a minimum of nine (9) feet wide. All driveways shall be illuminated with a post lamp. If such post lamp is electric, it shall be equipped with automatic operators (electric eye) to provide light from sundown to dawn.
10. SIGNS No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or a sign of any dimension used by a builder to advertise the

ISSUE #1

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 10 (p. 2): Protected Political/Real-Estate Signage, Flag, or Religious Display Restriction: Clause bans all yard signs without a statutory political/election sign carve-out or restricts protected U.S./military flags or religious displays under IN and federal law.

Statutory / Legal Reference: 4 U.S.C. § 5 Note (Freedom to Display the American Flag Act of 2005) & Ind. Code Title 32, Art. 25.5 (Indiana Homeowners Associations Act)

Statutory Comparison: Under Ind. Code Title 32, Art. 25.5 (Indiana Homeowners Associations Act); 4 U.S.C. § 5, associations may not prohibit the display of the United States flag (4 U.S.C. § 5) or enforce blanket bans on residential yard signs that fail to carve out statutorily protected political election signs, religious door displays, or owner "For Sale/For Lease" signs where preempted by IN statute.

CURRENT WORDING IN DOCUMENT:

SIGNS No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or a sign of any dimension used by a builder to advertise the

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 10 to carve out statutorily protected political signs during election periods, U.S./State/Military flags under 4 U.S.C. § 5, and religious displays in accordance with Ind. Code Title 32, Art. 25.5 (Indiana Homeowners Associations Act); 4 U.S.C. § 5.