

MARKUP #1 ->

point of attachment at such company’s installed transformers of energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition the Owner of each Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such Owner’s Lot. For so long as underground service is maintained in the Subdivision the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 240/120 volt, three wire, 60 cycle alternating current.

The electric company has installed the underground electric distribution system in the Subdivision at no cost to Developer (except for certain conduits, where applicable) upon Developer’s representation that the Subdivision is being developed for single family dwellings of the usual and customary type, constructed upon the premises designed to be permanently located upon the Lot where originally constructed and built for sale to bona fide Purchasers (such category of dwellings expressly excludes mobile homes).

SECTION 7.30. Easements for the underground service may be crossed by driveways, fences and walkways provided that the Owner of each Lot affected makes prior arrangements satisfactory with the utility company furnishing electric service and any other owner or user of such easement and provides and installs the necessary electric conduit and other structures of approved type and size under such driveways, fences or walkways and prior to construction thereof. Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, and neither the Developer nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants, to shrubbery, streets, flowers, or other improvements located on the land covered by said easements.

ISSUE #1

SECTION 7.31. Mailboxes, house numbers and similar matter used in the Subdivision must be harmonious with the overall character and aesthetics of the community and the decision of the Architectural Control Committee that any such matter is not harmonious shall be final.

SECTION 7.32. Except for one sign of not more than five (5) square feet advertising the Lot on which it is located for sale, no billboards or other signs of any kind or type may be erected in the Subdivision without the prior written consent of the Architectural Control Committee. In no event shall the use of flags or banners be permitted in the promotion or sale of any Living Unit in the Subdivision.

SECTION 7.33. Unless the Architectural Control Committee agrees otherwise, each Lot shall have driveway access to the street on which the Lot faces and shall not have driveway access to a street on which it may side. Subject to the foregoing limitations, the Owner of each Lot shall construct and maintain at his expense a driveway from his garage to an abutting street,

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 7.32. (p. 31): Flag or flagpole restriction fails to include statutory exemption for the United States flag under the Freedom to Display the American Flag Act.

Statutory / Legal Reference: 4 U.S.C. § 5 Note (Freedom to Display the American Flag Act of 2005) & Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules)

Statutory Comparison: The federal Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L. 109-243) prohibits community associations from adopting or enforcing any policy that prevents a member from displaying the flag of the United States on residential property to which the member has a separate ownership interest or right to exclusive possession or use.

CURRENT WORDING IN DOCUMENT:

Except for one sign of not more than five (5) square feet advertising the Lot on which it is located for sale, no billboards or other signs of any kind or type may be erected in the Subdivision without the prior written consent of the Architectural Control Committee. In no event shall the use of flags or banners be permitted in the promotion or sale of any Living Unit in the Subdivision.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

In accordance with the Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L. 109-243), any homeowner may respectfully display the official United States flag on residential property under their ownership or exclusive use.