

MARKUP #1 ->

which have a rear property line that borders a bayou, creek, or other natural watercourse may have a chain link fence along such rear boundary lines.

5.20 If a gate is placed across the driveway, it must be wrought iron of an open design, no taller than eight (8) feet in height and may be no closer to the street than the front of a house's structure.

5.21 No shrub or tree planting which obstructs sight lines at elevations between two (2) and seven (7) feet above the roadway shall be planted or permitted to remain on any corner lot within the triangular area formed by the curb lines of such intersecting streets and a line connecting such curb line at points twenty five feet from their intersection, or, in the case of a rounded corner, from the intersection of the curb lines as extended. The same sight line limitations shall apply on any lot within ten feet of the intersection of a street curb line and the end of a driveway. No trees shall be permitted to remain within such distances of intersections unless the foliage line is maintained at a height of more than seven (7) feet above ground level.

G. RESTRICTIONS ON USES

5.22 Each Owner shall use his Lot and the residential dwelling on his Lot for single-family residential purposes only. As used herein, the term "single-family residential purposes" shall be deemed to specifically prohibit, but without limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment or for any multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to the primary use of the Lot and the residential dwelling for residential purposes. As used herein, the term "unobtrusive" means, without limitation, that there are no business related sign(s) displayed on the Lot, there are no clients, customers, employees or the like who go to the Lot for any business related purpose on any regular basis, and the conduct of the business activity is not otherwise apparent by reason of noise, odor, vehicle and/or pedestrian traffic and the like.

5.23 No owner shall use or permit such owner's lot or residential dwelling to be used for any purpose that (i) constitutes a public or private nuisance, which determination may be made by the Board; (ii) constitutes a violation of these Restrictions or any applicable law or (iii) unreasonably interferes with the use and occupancy of the Subdivision by other owners. High intensity lighting, such as mercury vapor or high pressure sodium or metal halide is not permitted except on lots on the perimeter of the Subdivision and then only with the prior written approval of the ACC and in a manner, as determined by the ACC, that does not unreasonably illuminate an adjacent lot or otherwise unreasonably disturb the occupants of an adjacent lot.

ISSUE #1

5.24 No signs shall be allowed on any lot in the Subdivision except (a) one ground-mounted sign with an area of not more than five (5) square feet and which does not extend above the ground more than four (4) feet advertising the lot for sale or rent, (b) one (1) ground-mounted sign with an area of not more than five (5) square feet and which does not extend above the ground more than four (4) feet advertising a garage sale, and (c) political signs as permitted in this section. A sign advertising a garage sale shall not be displayed on the lot earlier than two (2) days before the date of the garage sale and must be removed from the lot immediately upon the conclusion of the garage sale. Unless otherwise provided by law, not more than one (1) sign for each political candidate or ballot item for election may be displayed on a lot. No political sign shall be displayed on a lot earlier than the 90th day before the date of the election to which the sign relates or later than the 10th day after that election date. All political signs must be ground-mounted. No political sign may be larger than four (4) feet by six (6) feet. The Association may go onto a lot and remove a sign displayed on the lot in violation of this section without liability in trespass or otherwise.

5.25 No oil well drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on a lot nor shall oil wells, tanks tunnels, mineral excavations, or shafts be permitted on any lot. No derrick or other structure designated for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any lot.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 5.24 (p. 7): 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 TX and federal law.

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: Under Tex. Prop. Code §§ 202.012, 202.018; Tex. Elec. Code § 259.002; 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 TX statute.

CURRENT WORDING IN DOCUMENT:

No signs shall be allowed on any lot in the Subdivision except (a) one ground-mounted sign with an area of not more than five (5) square feet and which does not extend above the ground more than four (4) feet advertising the lot for sale or rent, (b) one (1) ground-mounted sign with an area of not more than five (5) square feet and which does not extend above the ground more than four (4) feet advertising a garage sale, and (c) political signs as permitted in this section. A sign advertising a garage sale shall not be displayed on the

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 5.24 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 Tex. Prop. Code §§ 202.012, 202.018; Tex. Elec. Code § 259.002; 4 U.S.C. § 5.