

ground level; and (b) such item is no taller than the fence. Displays of American patriotism, school pride, and individuality are encouraged within reason and decorum; however, to maintain overall aesthetic character of the community, the following restrictions shall govern the display of flags within the community. No more than one (1) in-ground flagpole, of not more than twenty feet (20') in height, may be installed in a location within the Owner's Lot as designated or approved in advance of installation by the ACA. Each Owner is authorized to mount two temporary or permanent flagstaffs on the front, rear or side of their Dwelling by wall bracket. The flagstaffs should not to exceed six (6) feet in length. The suggested location for such bracket mounting is on the garage doorframe or near the garage door. No roof-mounted flagstaff is allowed. Multiple flag configurations and any flagstaff in excess of six (6) feet must be approved by the ACA prior to installation or display. The Owner may use the flagpole or flagstaff to display the American flag, the Texas flag, a flag of any branch of the United States armed forces, and pennants or banners such as school flags or sports team flags. All flags may contain no more than twenty-four (24) square feet of material and must be of good taste and presentation.

MARKUP #1 -&gt;

## ISSUE #1

**7.27 Pools/Equipment.** All swimming pools and associated decks shall be located in side and rear yards. They may not be located in easements. Pool equipment must be located where it will not cause a nuisance to neighbors and must be fully screened with privacy fence or evergreen shrubs or other approved landscaping. A privacy fence shall not be higher than necessary to screen the equipment. Lattice-type fencing will be considered for this purpose. Above ground pools, masonry block, vinyl lined and low hung vinyl lined pools are not allowed. Pneumatic pool enclosures are not permitted.

**7.28 No Lot Consolidation or Division.** No Owner, other than Declarant, may divide any Lot and/or consolidate any adjoining Lots and/or any portion thereof.

**7.29 Drainage Alteration Prohibited.** Unless approved by the ACA, no Owner will: (a) alter the surface water drainage flows of a Lot as originally established at the time of the initial construction of the Dwelling; or (b) install landscaping or other improvements that may interfere with, obstruct or divert drainage flows established by Declarant or any Builder. The foregoing shall not prevent or limit Declarant from performing any grading work and/or changing any surface water drainage flow on any Lot.

**7.30 Construction Activities.** This Declaration will not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction or remodeling of or making of additions to improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with diligence and conforms to usual construction practices in the area. If construction upon any Lot does not conform to usual practices in the area as determined by the Board, in its sole good faith judgment, the Board will have the authority to obtain an injunction to stop such construction. In addition, if during the course of construction upon any Lot, there is an excessive accumulation of debris of any kind that is offensive or detrimental to the Property or any portion thereof, then the Board may contract for or cause such debris to be removed, and the Owner of such Lot will be liable for all expenses incurred in connection therewith.

**7.31 Declarant [and Builder] Development and Construction.** Notwithstanding any

## MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

## BOARD &amp; COUNSEL REVIEW

**Sec. 7.27 (p. 25): Clause prohibits swimming pool safety enclosures in conflict with Tex. Prop. Code § 202.022.**

**Statutory / Legal Reference: Tex. Prop. Code § 202.022**

Statutory Comparison: Under Tex. Prop. Code § 202.023 (enacted by SB 1588), a subdivision property owners' association may not adopt or enforce any restrictive covenant that prevents a property owner from building or installing security measures, including but not limited to a security camera, motion detector, or perimeter fence (including front-yard security fencing) on the owner's private property, although the association may regulate the type of fencing material and appearance. Similarly, Tex. Prop. Code § 202.022 prohibits banning transparent mesh or black/clear pool safety enclosures.

## CURRENT WORDING IN DOCUMENT:

Pools/Equipment. All swimming pools and associated decks shall be located in side and rear yards. They may not be located in easements. Pool equipment must be located where it will not cause a nuisance to neighbors and must be fully screened with privacy fence or evergreen shrubs or other approved landscaping. A privacy fence shall not be higher than necessary to screen the equipment. Lattice-type fencing will be considered for this purpose. Above ground pools, masonry block, vinyl lined and low hung vinyl lined pools are not allowed.

## SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding the foregoing, pursuant to Tex. Prop. Code § 202.023 and § 202.022, the Association shall not prohibit an Owner from installing security measures on the Owner's private property (including security cameras, motion detectors, or perimeter security fencing) or compliant swimming pool safety enclosures, provided that such installations comply with reasonable architectural design, height, and material standards adopted by the Association and do not aim cameras onto neighboring private property.