

Old Braeswood POA Solar Device Policy

adopted September 2012

Section 3. Solar Energy Devices. Section 202.010 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device except as otherwise provided therein. As used in Section 202.010 of the Texas Property Code, "solar energy device" has the meaning assigned by Section 171.107 of the Tax Code, which defines the term as "a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power". The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

The following Guidelines shall be applicable to solar energy devices in Braeswood:

- 3.1. **Committee Approval.** The installation of a solar energy device requires the prior written approval of the Committee. Provided that, the Committee may not withhold approval if these Guidelines are met or exceeded, unless the Committee determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all owners of property adjoining the lot in question constitutes prima facie evidence that substantial interference does not exist.
- 3.2. **Location.** A solar energy device is not permitted anywhere on a lot except on the roof of the residential dwelling or other permitted structure on the lot or in a fenced yard or patio within the lot. Provided that, free-standing solar panels are not permitted on the front of the roof of a residential dwelling. Free-standing solar panels must be located in a yard area enclosed by a fence; however, the solar panels shall not extend above the top of a fence enclosing the yard area in which the solar panels are located.
- 3.3. **Devices Mounted on a Roof.** A solar energy device mounted on the roof of the residential dwelling or other permitted structure on a lot:
 - a. shall not extend higher than or beyond the roofline;
 - b. shall conform to the slope of the roof and have a top edge that is parallel to the roofline;
 - c. shall have frames, support brackets and/or visible piping or wiring that are silver, bronze or black tone, as commonly available in the marketplace; and
 - d. shall be located on the roof as designated by the Committee unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the Committee. For determining estimated annual energy production, the parties shall use a publicly available modeling tool provided by the National Renewable Energy Laboratory.
- 3.4. **Visibility.** A solar energy device located in a fenced yard or patio shall not be taller than or extend above the fence enclosing the yard or patio.
- 3.5. **Limitations.** A solar energy device is not permitted on a lot if, as adjudicated by a court, it threatens the public health or safety or violates a law.

Section 4. Storm and Energy Efficient Shingles. Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing shingles that:

- a. are designed to:
 - (i) be wind and hail resistant;
 - (ii) provide heating and cooling efficiencies greater than those provided by customary composition shingles; or
 - (iii) provide solar generation capabilities; and
- b. when installed:
 - (i) resemble the shingles used or otherwise authorized for use on property in the subdivision;
 - (ii) are more durable than and are of equal or superior quality to the shingles described below; and
 - (iii) match the aesthetics of the property surrounding the owner's property.

4.1. Committee Approval. In order to confirm the proposed shingles conform to the foregoing Guidelines, owners are encouraged to apply to the Committee for prior approval. The Association may require an owner to remove shingles that do not comply with these Guidelines.

4.2. Regulations. When installed, storm and energy efficient shingles must resemble, be more durable than, and be of equal or superior quality to the types of shingles otherwise required or authorized for use in Braeswood. In addition, the storm or energy efficient shingles must match the aesthetics of the lots surrounding the lot in question.