

SCHEDULE 1

EXHIBIT "C"

Initial Use Restrictions

The purpose of Architectural Guidelines and Use Restrictions is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities which fall outside of "the norm." In fact, it is expressly intended that the Reviewer under Article IV, and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Lot under one set of circumstances, the same thing may be disapproved for another Lot under a different set of circumstances. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it estop the Board from taking enforcement action in any appropriate circumstances.

Subject to the above, the following restrictions shall apply to all of the Residential Community until such time as they are amended, modified, repealed, or limited pursuant to Article III of the Declaration.

(a) Animals and Pets. No animals of any kind, including livestock and poultry, shall be raised, bred, or kept on any portion of the Residential Community, except that a reasonable number of usual and common household pets, as determined in the Board's discretion, may be kept on a Lot (including inside a dwelling). Unless the Board, in its discretion, determines otherwise, a reasonable number of dogs and cats, collectively, on any Lot shall be presumed to be two and Board consent is required for keeping additional dogs and/or cats on a Lot. Upon the Board's request, an Owner, at his or her expense, shall remove any pet that is permitted to roam free, or, in the Board's sole discretion, endangers health, makes objectionable noise, or constitutes a nuisance or inconvenience to other Owners or residents of any portion of the Residential Community. If the Owner fails to honor such request, the Board may cause the pet to be removed at the Owner's expense. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside a structure. Any person bringing a pet outside of a structure, or permitting a pet to go outside of a structure, shall be responsible for immediately and properly disposing of any solid waste from such pet.

(b) Wildlife. Capturing, killing, or trapping wildlife is prohibited within the Residential Community, except in circumstances imposing an imminent threat to the safety of Persons or pets.

(c) Firearms; Fireworks. The use and discharge of firearms within the Residential Community is prohibited. The term "firearms" includes "B-B" guns, pellet

ISSUE #1

MARKUP #1 ->

MARKUP #1 · FAIR HOUSING ACT (FHA) LIABILITY RISK

BOARD & COUNSEL REVIEW

Sec. 1 (p. 5): Pet restriction clause lacks mandatory statutory carveout for assistance and emotional support animals.

Statutory / Legal Reference: 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204; HUD Notice FHEO-2020-01

Statutory Comparison: Under federal Fair Housing Act regulations (42 U.S.C. § 3604(f)(3)(B), 24 C.F.R. § 100.204, and HUD Notice FHEO-2020-01), associations cannot apply pet restrictions, breed bans, weight limits, or pet fees/deposits to an individual with a disability who requires a service animal or emotional support animal.

CURRENT WORDING IN DOCUMENT:

except that a reasonable number of usual and common household pets, as determined in the Board's discretion, may be kept on a Lot (including inside a dwelling). Unless the Board, in its discretion, determines otherwise, a reasonable number of dogs and cats, collectively, on any Lot shall be presumed to be two and Board consent is required for keeping additional dogs and/or cats on a Lot.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided, however, that these pet restrictions, breed prohibitions, weight limitations, and pet fees shall not apply to verified assistance animals, including service animals and emotional support animals required as a reasonable accommodation under the Fair Housing Act (42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204; HUD Notice FHEO-2020-01).