

stipulations as to the use thereof and the construction of residences and improvements thereon for a period of time ending on December 31, 2012, provided, however, that each of said restrictions shall be renewable in the manner hereinafter set forth.

SECTION I. USE OF LAND:

None of the lots hereby restricted may be improved, used or occupied for other than private residence purposes, and no two family homes or multi-family homes, although intended for residence purposes, may be erected thereon. Any residence erected or maintained on any of the lots hereby restricted shall be designated for occupancy by a single family and each such residence shall have an attached and enclosed garage designed for the parking therein of at least two (2) passenger vehicles. Off-street parking, exclusive of garage interiors, shall be provided and maintained on each lot, hereby restricted, for not less than two (2) automobiles; all off-street parking surfaces, including driveways, shall be initially constructed and thereafter maintained with concrete. No flag poles, pumps, swings, swing sets, slides or similar objects, regardless of the materials used or the intended purpose or use thereof, may be erected or maintained on any of the lots hereby restricted without the prior consent, in writing, of the Architectural Control Committee. No business or commercial enterprise of any nature shall be conducted on the land herein described, provided, always, however, that the Developer reserves the right, for itself or its designated real estate representative, to maintain a residential real estate sales office upon any of the herein restricted lots owned by it for the purpose of promoting, advertising for sale, showing and selling lots, either improved or unimproved, within Oakmont.

SECTION II. REQUIRED HEIGHT OF RESIDENCES:

Any residence erected on any of the lots hereby restricted shall not be more than two (2) stories in height, provided, however, that a residence more than two (2) stories in height may be erected thereon with the prior consent in writing of the Architectural Control Committee.

SECTION III. FRONTAGE OF RESIDENCES ON STREETS:

Any residence erected wholly or partially on any corner lot shall front or present a good frontage on the street designated by the Architectural Control Committee.

SECTION IV. SETBACK OF RESIDENCES FROM STREET:

(a) No part of any residence, except as hereinafter provided, may be erected or maintained on any of the lots hereby restricted, nearer to the front street or the side street than is the front building or the side building line shown on said plat of Oakmont on the lot or lots on which said residence may be erected provided, however, that the Developer shall have, and does hereby reserve the right in the sale and conveyance of any of said lots, to change any building line shown thereon. No building may be constructed in violation of existing municipal zoning ordinances relating to setback of structures.

(b) Those parts of the residence which may project to the front of and be nearer to the front street and the side street than the front building lines and the side building lines are as allowed by applicable municipal zoning ordinances.

SECTION V. REQUIRED SIZE OF RESIDENCES:

Any residence erected on any lot in Oakmont shall contain a minimum of one thousand two hundred (1,200) square feet of enclosed floor area.

The words "enclosed floor area" as used herein shall mean and include, in all cases, areas on the first and second floor of the residence enclosed and finished for all-year occupancy, computed on outside measurements of the residence and shall not mean or include any areas in basements, garages, porches, or attics; provided, however, that certain interior areas of the second floor need not be immediately finished for occupancy if

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. I. (p. 2): 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) & K.S.A. §§ 58-4601 to 58-4623 (Kansas Uniform Common Interest Owners Bill of Rights Act)

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:

No flag poles, pumps, swing sets, slides or similar objects, regardless of the materials used or BtenouC ehepraor contente ne Meiting, us ne rhitoccuey bo erected or maintained Control Committee.

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.

ISSUE #1