

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 2.12 (p. 3): Restriction prohibits the display of U.S./Montana flags or political signs in violation of 4 U.S.C. § 5 and Mont. Code Ann. § 70-17-404 (HB 211).

Statutory / Legal Reference: 4 U.S.C. § 5 Note (Freedom to Display the American Flag Act of 2005) & Mont. Code Ann. §§ 70-17-901 et seq. & Title 35, Ch. 2
Statutory Comparison: Under the Freedom to Display the American Flag Act (4 U.S.C. § 5) and Montana property rights protections (Mont. Code Ann. § 70-17-404 / HB 211), an association may not prohibit an owner from displaying the United States flag, the Montana state flag, or political campaign signs on the owner's property.

CURRENT WORDING IN DOCUMENT:
clearly incidental and secondary to the use of the dwelling unit as living quarters and in connection with which there are: no commercial manufacturing of goods or products on the premises; no on-site employment of persons other than the residents of the dwelling unit; no generation of pedestrian or vehicle traffic beyond that customary and incidental to residential use of the dwelling unit; no use of commercial vehicles for deliveries to or from the dwelling unit other than mail and package delivery services; no signs or structures a

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Pursuant to 4 U.S.C. § 5 and Mont. Code Ann. § 70-17-404 (HB 211), nothing in the governing documents shall prohibit an owner from respectfully displaying the flag of the United States or the State of Montana, or displaying political signs on the owner's property subject to reasonable size and placement rules.

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Jeff Martin Clerk & Recorder, Yellowstone MT

- 2.6 Dwelling Unit: A structure or portion thereof designed for use as permanent living quarters, having sleeping, cooking, and complete sanitary facilities. (Manufactured, Mobile, and Move-on homes are not allowable Dwelling Units as defined herein.)
- 2.7 Home Occupation: Any occupational use customarily conducted entirely within a dwelling unit by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling unit as living quarters and in connection with which there are: no commercial manufacturing of goods or products on the premises; no on-site employment of persons other than the residents of the dwelling unit; no generation of pedestrian or vehicle traffic beyond that customary and incidental to residential use of the dwelling unit; no use of commercial vehicles for deliveries to or from the dwelling unit other than mail and package delivery services; no signs or structures advertising the occupation; and no excessive or unsightly storage of materials or supplies. For guidance, the following uses are examples of home occupations: making clothing; giving music lessons; a sole practitioner for professional practice, such as accounting. The operation of a bed and breakfast inn or establishment, Vacation Rental By Owner (VRBO), or Airbnb, are not home occupations.
- 2.8 Improvement: Any dwelling unit, accessory building, fence, road, driveway, well, water line, sewer, drain field, utility, antenna, sign, or any other structure, whether above or below the surface.
- 2.9 Junk Vehicles(s): Any motor vehicle not in running condition or that is unlicensed or unregistered.
- 2.10 Lot: Any plat of land designated numerically and shown upon any recorded subdivision map of the property.
- 2.11 May: Permissive.
- 2.12 Manufactured Home or Mobile Home: Factory assembled structure or structures, equipped with the service connections necessary to be used as a dwelling unit, and constructed to be readily moveable as a unit or units either on its own running gear or other system. The construction of these units is regulated by the federal Manufactured Housing Construction and Safety Standards Act as determined by the Department of Housing and Urban Development (HUD), and the units are not constructed in accordance with the standards set forth in the Uniform Building Code, or International Residential/Building Code.