

FIRST
AMENDMENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS

Pursuant to Article VIII, Section 1, of the Declaration of Covenants and Restrictions dated November 13, 1973, and recorded November 14, 1973, as Instrument Number 9420 in Book 140, page 403, a majority of the owners of the lots subject to the Covenants and Restrictions agreed to change the Covenants and Restrictions as follows:

Article VI, Village Farms, Inc., is hereby amended by deletion of the original language contained in Section 8. Annual Assessments and the substitution and addition of the following language:

Section 8. Annual Assessments.
The assessment year shall begin May 1st and end April 30th. The annual assessment for the assessment year commencing May 1, 1974 shall be \$120.00 per lot; for the assessment year commencing May 1st, 1975, \$156.00 per lot, and for the assessment year commencing May 1st, 1976, the annual assessment shall be \$192.00 per lot. Thereafter, the annual assessment may be increased or decreased by the board of directors of Village Farms, Inc.

The above amendment is recorded as Instrument Number 3157 in Book 142, page 188.

SECOND
AMENDMENTS TO DECLARATION OF
COVENANTS AND RESTRICTIONS

Pursuant to Article VIII, Section 1, of the Declaration of Covenants and Restrictions dated November 13, 1973, and recorded November 14, 1973, as Instrument Number 9420 in Book 140, page 403, a majority of the owners of the lots subject to the Covenants and Restrictions agreed to change the Covenants and Restrictions as follows:

Article IV, Restrictions Re Construction Improvement and Maintenance, is hereby amended by the addition of the following new Section 8. Accessory Outbuilding Restrictions:

Section 8. Accessory Outbuilding Restrictions.
Each lot in the Development is allowed a maximum of one (1) single story accessory outbuilding. Accessory outbuildings that are not constructed and located on a lot in the Development prior to November 14, 1993, may not exceed two hundred (200) square feet of ground area, with a maximum side wall length of twenty (20) feet and a minimum side wall length of eight (8) feet. The color of the accessory outbuilding shall be consistent with the residence on the lot. Accessory outbuildings shall be located within the building setback lines as set forth in the plat and further shall be located behind the back line of the residence.

Article V, General Prohibitions, is hereby amended by deletion of the original language contained in Section 4. Vehicle Parking, and the substitution and addition of the following language:

Section 4. Vehicle Parking.
No trucks, campers, trailers, boats, recreational vehicles or similar vehicles shall be parked on any street in the Development. No campers, trailers, boats, recreational vehicles, trucks (other than pickup trucks used as the primary source of transportation of the owners of the lot) shall be stored on any lot in the Development, except in an attached enclosed garage, unless the same is parked in such a manner that it is not visible to occupants of other lots in the Development or the users of any street in the Development. A vehicle described above shall be considered stored on a lot if it is parked for more than sixteen (16) consecutive days and/or parked for more than thirty-two days during any calendar year on any lot in the development.

Article V, General Prohibitions, is hereby amended by the addition of the following new Section 9. Restrictions to Satellite Dishes and Antenna:

Section 9. Restrictions to Satellite Dishes and Antenna.
Satellite dishes exceeding forty-eight (48) inches in diameter, pole type television and/or radio antenna and other similar apparatus are prohibited unless they are installed and operational prior to November 14, 1993. Each lot in the Development is allowed a maximum of one (1) satellite receptor for television/radio provided that it is forty-eight (48) inches or less in diameter, it is installed no higher than the eaves of a roof line, it is located no further than ten (10) feet from the back of the residential dwelling, it is not placed in any side yard and it is erected so that it is not visible from the front yard of the residence.

Article V, General Prohibitions, is hereby amended by the addition of the following new Section 10. Restrictions on Swimming Pools:

Section 10. Restrictions on Swimming Pools.
All swimming pools and associated decks constructed after November 13, 1993, shall be located within a side or rear yard, shall not be located closer than ten (10) feet to the lot line and shall not project more than two (2) feet above the established grade. After November 13, 1993, no above ground swimming pool shall be constructed upon, placed or replaced on any lot in the Development.

Article VI, Village Farms, Inc., is hereby amended by deletion of the original language contained in Section 7. Purpose of Assessments, and the substitution and addition of the following language:

Section 7. Purpose of Assessments.
The assessment levied by Village shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members, and in particular, for the improvement and maintenance of the facilities devoted to the purpose. Annual assessments shall be expended to defray the annual operating expenses of the Village as set forth

ISSUE #1

MARKUP #1 ->

MARKUP #1 - CONFLICTS WITH FEED LAW

BOARD & COUNSEL REVIEW

Sec. 9. (p. 10): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas is preempted by federal FCC OTARD regulations.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: The FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, as expanded by the 2021 OTARD Report and Order, FCC 21-10) preempts community association restrictions that prohibit, charge application fees for, require prior architectural approval for, or impose sub-1-meter (39.37-inch) diameter caps on the installation, maintenance, or use of television broadcast antennas, direct-broadcast satellite dishes 1 meter or less in diameter, and fixed wireless broadband antennas (including hub and relay antennas) situated on property within the exclusive use or control of the owner/tenant.

CURRENT WORDING IN DOCUMENT:

Restrictions to Satellite Dishes and Antenna. Satellite dishes exceeding forty-eight (48) inches in diameter, pole type television and/or radio antenna and other similar apparatus are prohibited unless they are installed and operational prior to November 14, 1993.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that this restriction shall not prohibit or require prior approval for any owner or occupant installing an antenna, fixed wireless broadband hub/relay device, or satellite dish of one meter (39.37 inches) or less in diameter within areas under the owner's or occupant's exclusive use or control, in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000).

