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MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 7.29 (p. 12): 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) & Ohio Rev. Code Ch. 5312 (Ohio Planned Community Law) & Ohio Admin. Code 1301:5-6
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:
Flag Poles. No free standing flag poles shall be permitted; however, flag poles may be attached to a residential structure provided that Association approval is obtained with respect to the placement and type of pole to be displayed.
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.

- 7.19 Parking.
- (a) On-street parking on any street in the Subdivision shall be restricted to occasional parking for special occasions only, not to exceed twenty-four (24) hours.
- (b) The provisions of this section 7.19 are not intended to replace any applicable Troy ordinance or regulation, and every Owner shall comply with all applicable Troy ordinances and regulations.
- 7.20 Size of Residence. Each single family residential structure erected on any building site shall have not less than 1,200 square feet. The square footage shall exclude garage space and basement, decking, patios and porches. The first floor of all structures shall have a ceiling height of not less than eight (8) feet in all enclosed, heated, habitable space.
- 7.21 Garage. All single family residences shall have a minimum two (2) car attached garage.
- 7.22 Solar Panels. The use of solar panels shall not be permitted.
- 7.23 Antennas and Satellite Dishes. No exposed or exterior radio or television transmission or receiving antennas, and no satellite dishes which exceed 24 inches in diameter shall be erected, placed, or maintained on any part of the Subdivision.
- 7.24 Vents. Vents protruding through the roof should be placed on rear roof surfaces when possible and be painted a color to blend with roof coloring.
- 7.25 Swimming Pools. Swimming pools shall match architectural character of the structure and be approved by the Association. No above ground pools shall be permitted except for portable children's wading pools.
- 7.26 Mailboxes. The Association may designate a mailbox design which must be used by each Lot Owner. The mailbox erected by the Lot Owner shall meet U.S. Postal Service specifications and applicable Troy ordinances.
- 7.27 Driveways. All driveways shall be concrete or other non-asphaltic hard surface pavement and should extend from the garage door to the rear of the sidewalk and shall be approved by the Association. The driveway approach shall be concrete pavement from the curb to the sidewalk and shall be constructed in accordance with Troy specifications.
- 7.28 Clothes Lines. The use of exterior clothes lines shall not be permitted.
- 7.29 Flag Poles. No free standing flag poles shall be permitted; however, flag poles may be attached to a residential structure provided that Association approval is obtained with respect to the placement and type of pole to be displayed.
- 7.30 Basketball Goals. No basketball goals shall be permitted to be attached to any residential structure; however, free standing basketball goals may be permitted provided that Association approval is obtained with respect to the placement and type of basketball goal and supporting structures.
- 7.31 Nuisances. No noxious or offensive activity which would constitute a nuisance shall be carried on any Lot.
- 7.32 Repairs. Each Owner shall, at his sole cost and expense, repair his residence, keeping the same in a condition comparable to the condition of the residence at the time of its initial construction, normal wear and tear excepted.
- 7.33 Trees Prohibited. No trees shall be planted between the curb and sidewalks required to be installed by the City of Troy, and no trees shall be planted within a public right of way or within a public easement.

ISSUE #1