

ARTICLE XII

MARKUP #1 ->

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

BOARD & COUNSEL REVIEW

Sec. C (p. 23): 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 (Fair Housing Act - Assistance Animals) & HUD 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:

No animals or livestock of any description, except up to three (3) domestic household pets as defined by the S.P.C.A. shall be kept on a lot, and all permitted pets must be kept on leashes or safely housed at all times. Barking must be kept under control so as not to interfere with a neighbor. All owners are responsible for cleaning up after their pets, on and off their property. No pets are permitted on any recreational areas such as athletic fields and community buildings.

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).

ISSUE #1

12.0 USE AND OCCUPANCY

12.1 Exclusive Camping Use

- A. No lot shall be used except for camping purposes.
- B. No lot shall be used as a primary residence.
 - 1. A charge of \$15.00 per day shall be assessed against a lot owner that is occupied or frequented by anyone, including the owner(s) of said lot, in excess of 180 days in any 365-day cycle. Said assessment shall be effective as the date of notification given by the Property Manager by regular mail.
- C. No one shall operate a business on or from any lot, or from anywhere within the Community without prior written consent of the Board of Directors.

12.2 Utilities

- A. Water and Electric Service
All full dues lots are served by water and electricity. Each and every lot for which full dues are paid is equipped with thirty (30) ampere electric service and each and every owner accepts said services and agrees to abide by such service. Any deviation from this provision, either by circumventing the existing 30-ampere circuit breakers, or replacing it with one of a different service amperage rating, shall be in violation of this Section of the Bylaws.
- B. Non-Sewered Lots
Property Owners of non-sewered lots shall assume the cost of connection, where feasible, at the time of connection. The Board of Directors or their agents will determine the feasibility and costs.

12.3 General Prohibitions

- A. No additional sewage or waste disposal structures, systems or operations whether of a permanent or temporary nature, shall be permitted on any lot.
- B. No drilling for water or digging of water wells shall be permitted on any lot.
- C. No animals or livestock of any description, except up to three (3) domestic household pets as defined by the S.P.C.A. shall be kept on a lot, and all permitted pets must be kept on leashes or safely housed at all times. Barking must be kept under control so as not to interfere with a neighbor. All owners are responsible for cleaning up after their pets, on and off their property. No pets are permitted on any recreational areas such as athletic fields and community buildings.
- D. For Sale signs and Advertisements of any kind are prohibited. During an election year, campaign signs may be posted on private properties provided they are not defamatory in any way. At no time, shall campaign signs be placed on common facilities. All campaign signs shall be removed within two (2) weeks of the completion of the election.
- E. No stripped down, partially wrecked, or junk motor or recreational vehicle or sizeable part thereof, and no discarded or abandoned material of any kind shall be permitted to be parked or stored on any lot or along a service driveway, street, or on any community property within the Community.
- F. No noxious, offensive, disorderly or illegal activities shall be carried on at any lot or common facilities.
- G. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in any lot.
- H. No storage tanks of any kind except for two (2) 100 lb. L.P. gas tanks in addition to original (towable) equipment on recreational vehicles. Also a maximum of two (2) 20 lb propane tanks for barbeques shall be permitted. All propane tanks shall follow the guidelines as outlined in the Rules & Regulations.
- I. No tree over three (3) inches in diameter shall be cut down from any lot without obtaining a permit from the Association Office.
- J. No trash, ashes, garbage or other refuse shall be dumped, or stored or accumulated on any lot. Nor shall grease, cooking oils, animal fats or detergents be poured or spilled onto the ground within the Community.
- K. No open fires of any kind shall be permitted on any lot with the exception of an enclosed campfire. Such fire must be physically attended at all times, with a charged water hose within five (5) feet of the campfire and thoroughly extinguished upon completion of use.