

ISSUE #1

Section 1: [Declaration Article IX, Section 9.7] Display of Flags and Flagpoles

MARKUP #1 ->

No freestanding flagpole shall be erected on any Lot, and no flag of any kind may be displayed on any Lot or residence without the prior written approval of the Architectural Review Board as to size, location, and mounting bracket.

Section 2: [Declaration Article X, Section 10.3] Leasing Restrictions, Tenant Approval, and Association Leasing Fee

No Owner may lease his Lot without first submitting a copy of the proposed lease and a tenant background application to the Board of Directors for prior written approval of the tenant, accompanied by a non-refundable administrative leasing review fee of \$250.00 payable to the Association.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 1 (p. 1): 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) & Va. Code Ann. §§ 55.1-1800 to 55.1-1836 (Virginia Property Owners' Association Act) & 18 VAC 48-50 / 48-60 / 48-70 (Virginia CIC Board &...

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:

[Declaration Article IX, Section 9.7] Display of Flags and Flagpoles No freestanding flagpole shall be erected on any Lot, and no flag of any kind may be displayed on any Lot or residence without the prior written approval of the Architectural Review Board as to size, location, and mounting bracket.

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.