

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. TO ENHANCE AND MAINTAIN A COMMUNITY OF EXCELLENCE (p. 11): 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:

Drones (unmanned aerial vehicles): Due to the close proximity of Kiln Creek to the Airport, recreational use of drones (unmanned aerial vehicles), is not permitted except if authorized by local, state & federal authorities.

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).

reconstructing such building or Improvement (See “Maintenance” on pgs. 13-14); or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Properties. Such work must be commenced promptly after the date of casualty and substantially completed no later than six (6) months after the date of casualty; provided, however, that any unsafe structure must be immediately secured. An extension may be granted by the Board of Directors, in its sole and absolute discretion.

4.
- Vandalism:** Damage to property by vandalism on common property must be promptly reported to the Association and law enforcement by any person having knowledge thereof. Remediation of vandalism on personal property must be commenced no later than 30 days after the occurrence. An extension may be granted by the Board of Directors, in its sole and absolute discretion.
5.
- Clothes Drying Equipment:** No clotheslines or other clothes drying apparatus shall be permitted outside an enclosed structure on any Lot. No portion of a Lot shall be used for the drying or hanging of laundry or the airing of clothes or other items unless such laundry or other items are located within an enclosed structure.
6.
- Commercial Use:** Pursuant to Section 7.1(w) of the Declaration, no Lot shall be used for any business, commercial, manufacturing, mercantile, storing, vending or other non-residential purpose. An Owner may operate a home occupation and/or office located in the dwelling on the Lot if:
 - Such occupation/office generates no significant number of visits (as determined by the Board of Directors) by clients, customers or other persons related to the business;
 - No equipment or other items related to the business are stored, parked or otherwise kept on such Owner’s Lot or the Properties outside of an approved enclosure;
 - Such Owner has obtained approvals for such use as may be required by the City of Newport News or the County of York;
 - Such Owner’s home and/or office is operated in accordance with all requirements of applicable governmental ordinances.
 - If Owner elects to have a sign, it may be no larger than one (1) foot by one (1) foot, located near the main entrance of the dwelling. Application is required prior to installation, see pg. 18-19, “signs”.

ISSUE #1

Drones (unmanned aerial vehicles): Due to the close proximity of Kiln Creek to the Airport, recreational use of drones (unmanned aerial vehicles), is not permitted except if authorized by local, state & federal authorities. Please see <http://peninsulaairportcommission.org/drones> and <https://registermyuas.faa.gov>.

8.
- Emissions:** There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere except for normal residential chimney emissions and no production, storage or discharge of Hazardous Materials on the Properties or discharges of liquid, solid wastes or other environmental contaminants into the ground or any body of water. See also, Section 7.1(j) of the Declaration. Normal amounts of BBQ grill/firepit smoke/emissions shall not be considered a violation, provided such grills are operated in accordance with the requirements of paragraph 13 below.
9.
- Firearms:** Because of the density of homes in Kiln Creek, no discharge of firearms or other projectile weapons is permitted. Any and all city and county ordinances must be followed. This includes, without limitation, guns, rifles, paint ball guns, BB Guns, pellet guns, sling shots and archery equipment.
10.
- Firewood:** Because of the threat of pest problems, firewood must be stored a minimum of six (6) inches off the ground. Firewood must be stored behind the rear foundation line of the dwelling on the Lot and stacked in a neat and orderly manner and shall not be stored in a manner that blocks access to