

ISSUE #1

MARKUP #1 ->

Section 1: [Article 1, Section 1.5] Signs: Blanket Prohibition on Signs (Excluding Political/Election Signs,

Section 1.5 Signs. No signs of any kind shall be displayed to the public view on any Lot, provided, however, that it shall be permissible to display on any Lot: a. one (1) professionally painted or printed sign of not more than four (4) square feet advertising the property for sale; b. one (1) sign of reasonable size and appearance identifying the occupants of a residence to be approved by the Architectural Review Committee; c. temporary signs such as relating to siding, lawn care or improvements performed on a Lot; and d. administration and directional signs during development, signs necessary to advise of caution or warn of danger, and such signs as may be required by law.

Section 2: [Article 1, Section 1.7] No Towers or Antennas Except 20-Inch Satellite Dishes

Section 1.7 No Towers. No towers or antennas are permitted on the lots except for small (20" or less) satellite dishes. Notwithstanding the foregoing, the Declarant may construct and place towers and antennas on Lots owned by the Declarant or common areas.

Section 3: [Article 2, Section 2.13] On-Site Energy Production (Solar and Wind) Subject to Unbounded ARC Veto

Section 2.13 On Site Energy Production. All on site energy production (i.e. solar, wind) apparatus or equipment to be located on the property shall be subject to prior review and approval by the Architectural Review Committee, which may be withheld or conditioned.

Section 4: [Article 2, Sections 2.14 & 2.15] Long-Term Rentals (>= 31 Days) vs. Short-Term Rentals (< 30 Days)

Section 2.14 Long-Term Rentals Allowed. For the purposes of this Section 2.14, 'long-term rental' means an Owner allowing occupancy of a residence in exchange for compensation, by a person or persons, other than family members, which shall be for a period of thirty-one (31) consecutive days or more. Any rental for a period of thirty (30) days or less is specifically prohibited herein... Section 2.15 No Short-Term Rentals. No lot, residential dwelling or guest house shall be used or rented for transient, hotel, or motel purposes, in which a private dwelling is rented, leased or furnished to the public for a period of less than thirty (30) days.

Section 5: [Article 2, Section 2.16] Common Areas: Total Exculpation of Declarant and HOA from Any Liability

Section 2.16 Common Areas. ...Any users of any Common Areas use the same at his/her own risk of injury, death, or damage. Neither Declarant, the Homeowner's Association, or any of the respective members of either shall be liable in any manner whatsoever for any claims, actions, liability, damages, costs, or expenses of any kind.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. Article 1, Section 1.5 (p. 1): Signage or flag restriction prohibits the display of the United States flag, South Dakota state flag, or political signs.

Statutory / Legal Reference: 4 U.S.C. § 5 (Freedom to Display the American Flag Act) & SDCL Ch. 43-15A

Statutory Comparison: Under 4 U.S.C. § 5 and South Dakota property governance principles (SDCL Ch. 43-15A), an association may not enforce any covenant or rule that prohibits an owner from respectfully displaying the flag of the United States or imposes an unreasonable blanket ban on temporary political signs on the owner's property.

CURRENT WORDING IN DOCUMENT:

[Article 1, Section 1.5] Signs: Blanket Prohibition on Signs (Excluding Political/Election Signs)
- Section 1.5 Signs. No signs of any kind shall be displayed to the public view on any Lot, provided, however, that it shall be permissible to display on any Lot: a. one (1) professionally painted or printed sign of not more than four (4) square feet advertising the property for sale; b. one (1) sign of reasonable size and appearance identifying the occupants of a residence to be approved by the Architectural Review Committee; c. temporary signs such as relating to siding, lawn care or improvements performed on a Lot; and d. administration and directional signs during development, signs necessary to advise of caution or warn of danger, and such signs as may be required by law.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to 4 U.S.C. § 5 and SDCL Ch. 43-15A, owners may respectfully display the flag of the United States, the flag of the State of South Dakota, and noncommercial political signs on their property subject only to reasonable size and placement standards.