

KENSINGTON SQUARE HOMEOWNERS ASSOCIATION, INC.

REGULATORY RESOLUTION NO. 2021 - 1

Rules and Restrictions Pertaining to Solar Panel Installations

WHEREAS, the Kensington Square subdivision is subject to certain covenants, conditions and restrictions by the Third Amended and Restated Declaration of Covenants, Conditions, Restrictions and Reservation of Easements ("Declaration"), of record in the land records of Fairfax County, Virginia, at Deed Book 21721, Page 0961, *et seq.*; and,

WHEREAS, Va. Code § 67-701 (*Covenants regarding solar power*) permits solar energy collection devices (primarily, solar panel displays) in community associations unless expressly prohibited by the association's declaration, subject to "reasonable restrictions concerning the size, place and manner of placement of such solar energy collection devices" on the individual lots or dwellings thereon; and,

WHEREAS, the Declaration specifically grants the Board of Directors the authority to approve, adopt and enforce rules and regulations, as set forth at Article II, Section 1(a) of the aforementioned Declaration (*Rights of Enjoyment of the Common Area*), which states in pertinent part that any lot owner's property rights are subject to the "*rights of the Board of Directors to adopt, promulgate, enforce and from time to time amend, reasonable rules and regulations pertaining to the use of the Lots and Common Area...*"; and,

WHEREAS, it is the intention of the Board of Directors by this Resolution to approve, adopt and publish to the membership the "reasonable restrictions" by which solar panel displays may be installed on the roofs of homes in Kensington Square.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors adopts the following rules and restrictions pertaining to solar panel displays.

Rules and Restrictions Pertaining to Solar Panel Installations

General Rules

1. Every lot owner – without exception – must comply with Article V, Section 3 of the Declaration (*Submission of Plans to the Architectural Review and Covenants Committee for Approval*) with respect to proposed solar panel installations.
2. The Architectural Review Committee ("ARC") must approve in writing all plans and materials *prior* to installation.

3. The preferred placement and location for solar panel displays is on the rear side of a roof, flush to the roof, such that the display is not visible from the curb in front of the dwelling.
4. Solar panel displays elevated above the roof will not normally be approved. If a variance to that rule is granted by the ARC, the panels shall not be visible above/over the peak/ridge of the roof.
5. Ground-mounted solar panel displays are prohibited and will not be approved.
6. Any installation of any type of solar energy collection device on common area is prohibited.
7. All proposed solar panel displays must implement and incorporate the newest anti-glare technology that is available in the solar panel industry.

Installation Rules

1. Size and Color

- A. Solar panels and framing must be selected to match/blend with the color of the roof or a dark color, to the extent practicable.
- B. All wiring and control devices must be concealed. Exposed piping shall not exceed 3' in length.
- C. Owners should ensure that there is minimal visual impact to adjacent properties and public view to protect and enhance the architectural integrity and aesthetics of the community.

2. Roof-Mounted Solar Panel Location

- A. Roof-mounted solar panels must be mounted parallel with the roof ridge and edges.
- B. Roof-mounted solar panels cannot extend past or over the roof line.
- C. Roof-mounted solar panels must be mounted so that the total height from the roof top to the top of the reflector shall not exceed 6".

3. Installation

- A. Solar panels must be properly installed and secured so they do not jeopardize the safety of any passerby and must comply with all applicable Virginia building codes and manufacturer's instructions.
- B. Owners are required to exercise their best efforts to install the solar panels in such a way and location where the panels will work with the least adverse impact upon the lot's aesthetic appearance and in the least obtrusive manner possible.

4. Maintenance

- A. Owners who install or maintain solar panels are responsible for all costs associated with the following:
 - 1. Placing (or replacing), repairing, maintaining, and moving or removing the solar panels;
 - 2. Repairing damage to any property caused by the Owner's failure to properly install, maintain or use the solar panels;
 - 3. Reimbursing the Association for any costs incurred to correct damage caused by the Owner's failure to properly install, maintain or use the solar panels.
 - 4. Townhome owners who install solar panel displays on roofs which are replaced by the Association per Declaration Article VI, Section 12(a) (*Roof Replacement and Repairs*) are **solely** responsible to both perform and pay for the removal and re-installation of their solar panel displays upon the occasion of any roof replacement;
 - 5. If any solar panel display damages in any way a townhome roof, for which roof the Association is responsible pursuant to Article VI, Section 12(a), the repair shall be performed by the Association and the costs of the repair shall be assessed against the solar panel owner.
- B. Owners shall have a continuing duty to prevent their solar panels from falling into disrepair or becoming a safety hazard. Owners shall be responsible for the solar panel maintenance, repair and replacement, and the correction of any safety hazard.
- C. If a solar panel becomes detached, the Owner must remove or repair such detachment within 72 hours of the detachment.
- D. Owners are responsible for the repainting or replacement of the solar panels if the appearance of the exterior surface of their solar panels deteriorate or are damaged in any way.
- E. In the event that the solar panels are permanently removed, the Owner must restore the roof to its original condition.

5. Applications

Applications submitted to the ARC must include the following:

- A. A diagram "drawn to scale" by the licensed contractor installing the system showing where the system will be installed.
- B. Photos of the roof area where the array will be mounted.

- C. Material to be used and/or manufacturer's description of the system, photos and/or pictures of the system and color of the system.
- D. Where possible, provide photos of similar existing systems as examples. Piping and electrical connections will be located directly under and/or within the perimeter of the panels, when possible, and placed as inconspicuously as possible when viewed from all angles.

6. Application Variances

Applications which do not comply with the restrictions set forth above will be returned as disapproved. Pursuant to Va. Code § 67-701B, if the applicant then claims that compliance with any of the restrictions set forth above will (i) increase the cost of installation of the solar panel display by 5% over the projected cost of the initially proposed installation, or, (ii) reduce the energy production of the solar panel display by 10% below the projected energy production, it is the responsibility of the applicant to demonstrate to the Association those limitations by producing competent proof of same. The applicant may meet his burdens of demonstration and production by the following:

A. The applicant must request a reconsideration of the application and re-submit the application to the ARC or Board of Directors;

B. With that resubmitted application, the applicant **must** provide "documentation" (engineering report, analysis, depictions, etc.) that is prepared and signed by an independent solar panel design specialist. The documentation must clearly and understandably show the projected increase in cost of installation or the projected reduction in energy efficiency that is allegedly caused by any of the restrictions set forth herein;

C. The documentation must specifically pertain to the applicant's address and to his application, and clearly indicate as much;

D. The independent solar panel design specialist must include in his report or analysis his credentials as being certified by the North American Board of Certified Energy Practitioners ("NABCEP") and as being licensed in Virginia, and must further include all verifiable registration, license, and certification information in his report.

E. If the expert documentation presented by the applicant upon the re-submission of his application strictly complies with the foregoing requirements, the ARC or Board of Directors shall find the documentation satisfactory and shall approve a non-conforming installation.

F. If the expert documentation presented by the applicant does not comport with any of the above requirements, it shall be deemed not satisfactory and the ARC or Board of Directors shall disapprove the resubmitted application within the time periods specified in Article V, Section 5 of the Declaration.

RESOLUTION ACTION RECORD

Resolution Type: Regulatory No. 2021 - 1

Pertaining to: Rules and Restrictions Pertaining to Solar Panel Installation

Duly approved and adopted by the Board of Directors at the regularly scheduled Board meeting on May 19, 2021.

Motion by: Rich Williamson Seconded by: Mike Glassman.

VOTE:

	YES	NO	ABSTAIN	ABSENT
<u>Alan Zusman</u> , Member <u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>James Joyce</u> , Member <u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u> , Member <u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u> , Member <u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u> , Member <u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

ATTEST:

Alan Zusman 5/21/2021
Secretary Date

Book of Minutes - 2021

Book Resolutions:	Book No.	Page No.
Policy	<u> </u>	<u> </u>
Regulatory	<u> </u>	<u> </u>
Special	<u> </u>	<u> </u>
General	<u> </u>	<u> </u>

Resolution effective: Upon publication to membership.