

- II.

foster homes, nursing homes, halfway houses, health care centers, human service establishments, including human service homes, human service residences, human service facilities and human service shelters, health care support facilities, hospices, and youth homes and any other similar or dissimilar group homes;
- III.

multi-family dwellings, or any uses of kindred character, because it is crucial to prohibit any activity which results in customer traffic, warehousing, chemical odors, vehicular activity, advertising displays, communication antennae, production equipment, employees, or any other evidence of organized business use of a dwelling;
- IV.

rental or occupancy for profit for short-term, vacation, time-sharing, transient or hotel type purposes, including any licensing or any other transaction involving advertising or services through entities such as VRBO or Airbnb, no matter what name is assigned to the arrangement.

2. THE FOLLOWING PARAGRAPHS ARE HEREBY ADDED TO SECTION 15 OF THE DECLARATION:

Leasing and Occupancy: The right to lease any Lot is subject to any restrictions of record and is also subject to the following:

- (a) short-term occupancies and rentals of less than six (6) consecutive months are prohibited; and
- (b) the Board shall have the authority to promulgate non-discriminatory Rules which may prohibit or restrict leasing of Lots as described below.

For the purposes of this Section, any terms related to “Lease” or “Leasing” or “Rent” will be defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner. However, persons who reside with the Owner, a guest or an invitee of the Owner or a roommate of the Owner, where the Owner occupies the Lot as the Owner’s primary residence, are not considered tenants and their occupancy does not constitute leasing; and a Lease is not required for exclusive occupancy by the adult child, grandchild, or parent of an Owner.

All leasing must begin as a written lease or occupancy agreement (“Lease”), and a copy of same shall be provided (upon request) to the Board. All Leases shall provide that the terms of the Lease and occupancy of the Lot shall be subject in all respects to the provisions of the Association’s governing documents, including the Board’s authority to adopt additional Rules to supplement the implementation of this restriction.

Short-term occupancies and rentals of less than six (6) consecutive months, of Lots, including but not limited to transient, hotel, bed-and-breakfast or vacation type rentals, are prohibited. Any of the uses set forth in the preceding sentence shall be prohibited on any Lot even if such use is determined to be a residential use. Upon the expiration of any Lease of at least six (6) consecutive months, the Owner may thereafter extend that Lease on a month-to-month basis. All Leases shall be for the entire Lot without the subdivision of dwelling units for leasing purposes. Subleasing, meaning the leasing or rental of a leased Lot from the tenant under the Lease to another person, is prohibited.

All occupancies, Leases and rental agreements of Lots shall state that the failure of the tenant, lessee, renter or their guests to comply with the terms of the governing documents of the Association shall constitute a default under the Lease, and may also subject the Owner to a fine and other remedies set forth in the governing documents.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 15 (p. 3): 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:

displays, communication antennae, production equipment, employees, or any other evidence of organized business use of a dwelling; IV. rental or occupancy for profit for short-term, vacation, time-sharing, transient or hotel type purposes, including any licensing or any other transaction involving advertising or services through entities such as VRBO or Airbnb, no matter what name is assigned to the arrangement.

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).