

MARKUP #1 ->

- 4. If the violation continues after the expiration of the timeframe set forth in the third and final demand letter, the account will be sent to the attorney to seek injunctive relief.
- 5. Violations that reoccur within 3 months’ time of correction may bypass the 14-day timeframe.
- 6. The attorney will then seek to rectify the condition by corresponding with the homeowner and by seeking injunctive relief through the court system, including, but not limited to, providing the owner with a Statutory Offer of Mediation.

Further Restrictions: The restrictions contained herein are intended to be minimum restrictions applying to the Properties. The Board and/or the Association will have the right to subject the Properties to further restrictions and covenants by way of the Declaration.

Anything deemed to be an emergency violation would be handled on a case-by-case basis. The Board of Directors shall have the discretion and authority to determine that a particular violation warrants a specific remedy or timeframe (including acceleration of the timeframe), and its remedies shall be cumulative.

Non-Waiver: No delay in enforcing these rules as to any breach or violation thereof shall impair, damage, or waive the right of the Association to enforce the same, to obtain relief against or recovery for a continuation or repetition of such breach of violation or of any similar breach of violation thereof at a later time or times.

In no event should owners who witness another Owner in violation of the Declaration, Articles, Bylaws, or these Rules rely upon the existence of that violation as grounds to believe that the Association has waived its right to enforce that restriction or that the Association is engaging in selective enforcement. The violation should be reported to the Association for enforcement.

AIR CONDITIONERS AND EQUIPMENT/SHIELDING

No window air conditioning units shall be permitted. All air conditioning units, heating units, propane tanks, and pool equipment shall be shielded by landscaping or fencing, so that they shall not be visible from the right of way.

ANIMALS

Each household shall not exceed a total of six (6) animals, consisting of dogs and/or cats. No horses, cattle, swine, goats, poultry, fowl, or any other animals not commonly considered household pets shall be kept on the Properties. The Association may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on the Properties. In no case should animals be raised for commercial breeding purposes.

All pets shall be kept on a leash that is continually under the control of the owner, or the person walking the pet, when not on the pet owner’s fenced in unit or on a designated area for such pets and no pet shall be allowed to roam unattended.

All residents must clean up after their pets. Pet waste should be disposed of properly in a community provided waste container or the weekly trash. Trash stored on property must be kept away from neighboring properties to prevent odor.

Written complaints received by the Association concerning barking dogs, pooper scooper violations and unleashed pets on private, public, or common areas, will be issued a warning by the Association if the alleged nuisance has been reported with sufficient evidence. In addition, the Association may monitor the alleged nuisance and reserves the right to refer the matter to Association’s legal counsel for handling if appropriate.

ISSUE #1

ANTENNAE

Without the express prior written consent of the ARC no exterior radio television dish or other antennae or device for sending or receiving electromagnetic signals will be erected or maintained in Avalon Park. The ARC shall consent to requests for approval of such equipment provided aesthetic impact to surrounding properties is minimized by fencing or other screening materials to the extent permitted by applicable law.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. ANTENNAE (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:

ANTENNAE Without the express prior written consent of the ARC no exterior radio television dish or other antennae or device for sending or receiving electromagnetic signals will be erected or maintained in Avalon Park. The ARC shall consent to requests for approval of such equipment provided aesthetic impact to surrounding properties is minimized by fencing or other screening materials to the extent permitted by applicable law.

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).