

CL 2006195336 OR 3235/2734

accompanied by an adult at all times except, with respect to activities at the Club, as provided by, and in accordance with the terms of, the Club Plan.

13.30 Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of Bellalago™ and Isles of Bellalago™ is permitted. No firearms or fireworks shall be discharged within Bellalago™ and Isles of Bellalago™ without the written permission of the Association. Nuisance shall include, without limitation, the playing of loud music or the gathering in front of Homes or Common Areas by any Owner or permitted occupant, his or her immediate family, guests, tenants and invitees. Nothing shall be done or kept within the Common Areas, or any other portion of Bellalago™ and Isles of Bellalago™, including a Home or Lot which will increase the rate of insurance to be paid by Association.

13.31 Paint. Homes shall be repainted at least once every five (5) years or more often, as needed, but in any event within forty five (45) days of notice by the ARC.

13.32 Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property may be stored, or any use made of, on the Common Areas except personal property owned by Association or personal property owned by an Owner and used in the enjoyment of the Common Areas (e.g., chair for fishing). No personal property may be stored, or any use made of, on any Parcel or Home which is unsightly or which interferes with the comfort and convenience of others as determined by the Board.

13.33 Pools. No above-ground pools shall be permitted. Except with respect to the Club, all in-ground pools, hot tubs, spas and appurtenances installed shall require the prior written approval of the ARC as set forth in this Declaration. All pools shall be adequately maintained and chlorinated. Unless installed by Developer or Club Owner, diving boards, slides or platforms shall not be permitted without written ARC approval and as set forth in the Architectural Review Requirements.

13.34 Residential Use. Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, Lessees and invitees.

13.35 Roofs, Driveways and Pressure Treatment. Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be pressure treated as often as appropriate but in any event within thirty (30) days of notice by the ARC. No surface applications to driveways shall be permitted without the prior written approval of the ARC as to material, color and pattern. Such applications shall not extend beyond the front Lot line or include the sidewalk. Notwithstanding Association's responsibility to paint, each Owner shall be responsible to pressure clean between paintings. The Board may decide to have annual window washing or roof repair and may collect the costs thereof as part of Operating Costs or Reserves

13.36 Satellite Dishes and Antennas. No exterior visible antennas, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration. The ARC may require, among other things, that all such improvements be screened or located so that they are not visible from adjacent streets, Homes, or from the Common Areas. Each Owner agrees that the location of such items must be first approved by the ARC in order to address the safety and welfare of the residents of Bellalago™ and Isles of Bellalago™. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. Notwithstanding the foregoing, Club Owner may install Telecommunications Services equipment, a satellite dish or similar equipment within the property comprising the Club. All antennas not covered by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

13.37 Screened Enclosures. No screened enclosures, for pools or otherwise, shall be permitted without the prior written approval of the ARC and as set forth in the Architectural Review Requirements.

13.38 Servants. Servants and domestic help of any Owner may not gather or lounge in or about the Common Areas.

Amended and Restated Bellalago™ and Isles of Bellalago™ Declaration
July 21, 2006
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MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 13.36 (p. 41): 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:

Satellite Dishes and Antennas. No exterior visible antennas, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration. The ARC may require, among other things, that all such improvements be screened or located so that they are not visible from adjacent streets, Homes, or from the

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).

ISSUE #1