

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

ISSUE #1

BOOK 15208 PAGE 0739

may be used only where the prior written consent of the Directors is obtained.

5.5.7 No Time-Sharing: No "Time-Share Plan" (as defined in Chapter 721 of the Florida Statutes), or any similar plan shall be permitted for any Dwelling Unit.

5.5.8 Antennas and Aerials: Except as approved by the Directors, no antennas or aerials shall be placed upon the Property, unless completely inside a Dwelling Unit. Satellite reception dishes with a diameter in excess of eighteen (18") inches shall be permitted only if completely enclosed by a fence or landscaping meeting the requirements of the Directors.

5.5.9 Signs, Flags and Banners. No "for sale" signs or "for rent" signs shall be displayed during the Developer Control Period. Thereafter, any "for sale" or "for rent" signs shall be subject to requirements set by the Directors as to number, size, letterings and location. No other sign, advertisement or notice shall be permitted on the Property unless specifically permitted by the prior written consent of the Directors. Flags, banners, pennants and streamers may not be displayed, except that American flags may be displayed subject to requirements set by the Board as to size and location.

5.5.10 Maintenance of Premises. In order to maintain the standards of LIBERTY ISLES, the Property and improvements thereon shall be kept in a good, safe, neat, clean and attractive condition, and all improvements thereon shall be maintained in a finished, painted and attractive condition, and no weeds, underbrush or other unsightly growth shall be permitted to grow or remain on any portion of the Property, and no refuse or unsightly objects shall be allowed to be placed or permitted to remain anywhere thereon, and no grass on said Property shall be permitted to grow in excess of four inches for improved property and ten inches for unimproved property. Improved property shall be any Lot on which the construction of a Dwelling Unit has been completed as evidenced by the issuance of a certificate of occupancy. Unimproved property shall be any portion of the Property, which is not improved property. Excepted from the foregoing provisions of this Paragraph shall be any portion of the Property owned by Declarant or its nominees through the period of construction of Dwelling Units or other improvements thereon. However, all such construction debris, refuse, unsightly objects and waste on a portion of the Property must be removed within 30 days after the completion of construction of the improvements on such portion of the Property, as evidenced by issuance of a certificate of occupancy, if applicable. Unless prohibited by the applicable governmental authority or unless otherwise maintained by the Association, the Owner of a Lot shall also be responsible for maintaining the property between the edge of the Owner's Lot line and the edge of pavement or curb of the adjacent paved roadway in accordance with the requirements of this Paragraph 5.5.10, including, but not limited to, keeping all portions thereof (except the driveways) fully sodded and maintaining the Owner's driveway and the portion of a sidewalk, if any, lying within this area. Upon the failure of an Owner to maintain the Owner's Lot, any portion of the Property adjacent thereto for which the Owner has a duty to maintain and any improvements on the Lot or adjacent property and upon the Owner's failure to correct such deficiencies within ten (10) days after written notice by the Association or Declarant, the Association or Declarant, until Declarant no longer owns any portion of the Property, may, at its option, enter upon such Lot or portion of the Property and make such corrections as may be necessary, the cost of which shall be paid for by the Owner. If any Owner fails to make payment as requested, the requested payment shall be collected as a Special Lot Assessment from the Owner as elsewhere described this Declaration. If Declarant makes such corrections, the Association shall upon written request reimburse Declarant for the expense thereof. The application or operation of this subparagraph shall be in addition to the remedies provided in Paragraph 4.1.2.

5.5.11 Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats, or other usual and common domesticated household pets not to exceed a total of three may be permitted in a Lot. This limitation does not apply to fish. However, those pets, which, in the sole discretion of the Board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Property, shall be removed upon request of the Board. If the

Sec. 5.5 (p. 13): 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:

5.5.B Antennas and Aerials : Except as approved by the Directors, no antennas or aerials shall be placed upon the Property, unless completely inside a Dwelling Unit. Satellite reception dishes with a diameter in excess of eighteen (18") inches shall be permitted only if completely enclosed by a fence or landscaping meeting the requirements of the Directors.

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).