



ISSUE #1

10.8 NOTHING TO BE ERECTED UPON BUILDING OR COMMON ELEMENTS.

No signs, flags, advertisements or notices of any type shall be erected upon the Common Elements; no screen or glassing shall be added to the porches of the Units; and no exterior antennas or aerials shall be erected upon the Units or the Common Elements except as described below; provided, however, the Board in their regulations may vary this restriction regarding signs, flags, advertisements, or notices. With the prior written approval of the Board, the lanai may be enclosed by glass, provided the outside screening remains in place and the proposed glass enclosure conforms to any Board adopted standards.

10.9 TELEVISION AND OTHER OUTDOOR ANTENNAE.

A. **Common Elements.** No television, radio, satellite, or other antenna or satellite system may be erected, attached or installed on the Common Elements without the prior written approval of the Board of Directors. Certain television, satellite, or other antenna systems may be erected, attached or installed on the Common Elements subject to compliance with the following requirements:

1. **Permitted Antennae.** Permitted antennae (collectively hereinafter referred to as “antennae”) include: direct broadcast satellite dishes (DBS) that are one meter (39 inches) or less in diameter; multi-channel, multi-point distribution service devices (MMDS) that are less than one meter in diameter of diagonal measurement. Permitted antennae shall be the manufacturer’s original color. Permitted antennae shall be erected on the Common Element ground as indicated below. Attachment to a Building is prohibited. Poles, rods, stands or other devices used for the purpose of extending Permitted Antennae are subject to Board regulation. No mast, antenna or similar structure for the transmitting or receiving of am/fm radio, amateur radio or any other form of radio communication shall be permitted to be erected, attached or installed on the Common Elements.

2. **Antennae Location.** Permitted antennae shall only be erected, attached or installed on the Common Element ground at the rear of the Unit. If the area of permitted placement specified above does not permit the Unit Owner an acceptable quality signal because the signal is blocked by trees located on the Condominium Property, the Board of Directors may, at its discretion and at the sole cost of the Unit Owner, remove any portion of a tree, subject to any permitting requirement, which it determines to be interfering with the Unit Owner’s reception of an acceptable quality signal.

B. **Limited Common Elements or Within Unit.** Unit Owners may erect, install or attach direct broadcast satellite dishes (DBS) that are one meter (39 inches) or less in diameter; multi-channel, multi-point distribution service devices (MMDS) that are less than one meter (39 inches) in diameter of diagonal measurement (collectively hereinafter referred to as “antennae”) in areas in which the Unit Owner has exclusive control (i.e. Limited Common Elements of the Unit and within Unit and to the exclusion of all other Units). No mast, antenna or

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 10.8 (p. 24): Flag or flagpole restriction fails to include statutory exemption for the United States flag under the Freedom to Display the American Flag Act.

Statutory / Legal Reference: Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L. 109-243)

Statutory Comparison: The federal Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L. 109-243) prohibits community associations from adopting or enforcing any policy that prevents a member from displaying the flag of the United States on residential property to which the member has a separate ownership interest or right to exclusive possession or use.

CURRENT WORDING IN DOCUMENT:

NOTHING TO BE ERECTED UPON BUILDING OR COMMON ELEMENTS. No signs, flags, advertisements or notices of any type shall be erected upon the Common Elements; no screen or glassing shall be added to the porches of the Units; and no exterior antennas or aerials shall be erected upon the Units or the Common Elements except as described below; provided,

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

In accordance with the Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L. 109-243), any homeowner may respectfully display the official United States flag on residential property under their ownership or exclusive use.