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MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Lot, nor shall he place any furniture, furnishings or equipment outside the Improvements on his Lot, except with the prior written consent of the Association. This provision shall not apply to the Declarant, nor shall it prohibit the use of patio furniture within the confines of a patio appurtenant to a particular Lot. This provision shall not apply to detached single family center lot residences.

ISSUE #1

Section 10. Antennae. No radio, television or other electronic antennae or aerials may be erected or maintained anywhere on the Association Property or the Common Property (unless installed by the Declarant or the Association), or on any Lot or the exterior of any Dwelling, without the prior written approval of the Association. Wind-driven attic ventilators shall not be permitted on any Dwelling. Plumbing and heating vents protruding from roofs of Dwellings shall be painted so as to blend into the roofing color and shall be located, whenever possible, out of sight from the front elevation.

Section 11. Minimum Size of Dwelling. Dwelling shall have a minimum floor living area of 1,750 air conditioned square feet; provided, however, the A.R.B. shall have the right to require a greater minimum floor area if the A.R.B. disapproves the design of a residence or a lesser minimum floor area if a Lot configuration creates a hardship in meeting the 1,750 air conditioned square foot minimum. A two story Dwelling shall have a minimum floor living area of 2,000 square feet, with a minimum of 1,600 square feet on the first floor. This square footage is exclusive of garages, covered walks, open and/or screened porches or patios and pool areas. Square footage measurements shall be taken from outside exterior walls.

Section 12. Subdivision of Lots. No Lot shall be re-subdivided to form a Lot smaller than a platted Lot except by replat; provided, however, that a single Lot may be combined with another Lot to form a larger Lot, with the prior written approval of the A.R.B.

Section 13. Elevation and Grade of Lots. No change in the elevation of any Lot shall be made, nor shall any fill be used to extend the Property beyond the Lot line, without the prior written consent of the A.R.B. No Lot abutting water shall be increased in size by filling in the water it abuts, without the prior written consent of the A.R.B.

Section 14. Residence Graphics. The size and design for all signs, house numbering, outside lamp posts, mailboxes and other such materials shall be selected by the A.R.B. to ensure consistency and uniformity through the Development.

Section 15. Removal of Trees. In reviewing building plans, the A.R.B. shall take into account the existing landscaping such as

Sec. 10. (p. 31): 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. No radio, television or other electronic antennae or aerials may be erected or maintained anywhere on the Association Property or the Common Property (unless installed by the Declarant or the Association), or on any Lot or the exterior of any Dwelling, without the prior written approval of the Association, Wind - driven attic ventilators shall not be permitted on any Dwelling.

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).