MARKUP #1 ->

and informational signs installed by Developer and signs or notices required by law. The Association shall designate a place within the Condominium Property for the posting of notices required or permitted by the Condominium Documents and the Condominium Act, and may specify by Rules and Regulations such other type or types of notices and information that Owners may post at such location, if any. Provided, however, notwithstanding anything else contained herein to the contrary, an Owner may display one portable, removal, United States flag in a respectful way, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veteran's Day, may display in a respectful way, portable, removable, official flags, not larger than 4 ½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corp, or Coast Guard, as provided by the Condominium Act.

12.8. Visual Clutter. No garments, rugs, towels, or other materials may be hung from windows, railings, patios, balconies, or lanais or be otherwise placed on or around the exterior of any building. No Owner may place or maintain any item or material in or upon any walkways, stairs or other Common Elements, except that the Association may, by uniform Rules and Regulations, authorize the placement of small potted plants near the front door of a Unit so long as such plants do not protrude into or block access. If the Association determines that authorizing such small plants is no longer in the best interest of the Condominium, the Association may prohibit same.

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12.9. Antennas and Dishes. No antenna, mast, satellite dish, disc or other similar radio or telecommunication sending or receiving device may be located within or upon any Common Element except in accordance with this Section.

(a) Such devices may be erected and maintained by an Owner only if and as so provided pursuant to uniform Rules and Regulations adopted by the Association. The Association has no obligation to authorize the installation of any such devices, and if it elects to do so, may impose such restrictions and limitations as the Association deems appropriate. In no event may an Owner install or erect any such device upon any Common Element, or drill a whole or otherwise penetrate any Common Element wall for the purpose of installing wires or other connectors, until he has applied for and received written approval from the Association to do so.

(b) If and to the extent the restrictions of this Section on the location of any such devices may be regulated by the Federal Communications Commission, then such devices shall be deemed to be permitted to the extent provided by such regulation. In such event, however, the Association may, by regulation, impose such procedures, restrictions and other provisions relating to the installation and location of such device as may be permissible under the regulations of such governmental agency.

(c) The Owner erecting or installing any such device shall be responsible for all costs related to the installation, maintenance, repair and replacement thereof, and for any cost the Association may incur as a consequence of such device's installation or existence. An Owner's successor in interest to his Unit shall be deemed to have assumed all responsibility for any such device. If an Owner wishes to remove such device, he may do so, but shall be responsible for any costs the Association may incur as a consequence of such removal. The Owner of each Unit as to which such a device is installed shall indemnify and hold the Association harmless for all costs, expenses and liabilities that may be asserted against the Association with respect thereto. No installation of any telecommunication receiving device will relieve an Owner from payment of his share of Common Expenses for any cable television or other telecommunications provided by the Association as a Common Expense.

12.10. Terraces. No Owner shall place, store or use any item within a terrace without

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 12.8 (p. 37): 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:

Antennas and Dishes. No antenna, mast, satellite dish, disc or other similar radio or telecommunication sending or receiving device may be located within or upon an Common Element except in accordance with this Section
(a) (b)
(c) Such devices may be erected and maintained by an Owner only if and as so provided pursuant to uniform Rules and Regulations adopted by the Association.

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).