

Hawaii Loa Ridge Owners Association Rules

MARKUP #1 ->

responsible for tenant’s or lessee’s compliance with all of the provisions of the Declaration and Rules, including but not limited to as particularly set forth in Rules 7.1 and 7.2.

- 5.4 Improvements, Alterations and Repairs. No improvement, repair, excavation, fill or other work which in any way alters the exterior appearance of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed to Owner shall be made or done without the prior written approval of the Architectural Committee, given pursuant to the terms of Article V of the Declaration. All repairs, maintenance and care of the exterior surfaces of Residences and Lots shall be undertaken by the Owner in accordance with the Declaration, including Article IV thereof, and with standards established in the Rules.
- 5.5 Temporary Occupancy. No trailer, recreational vehicle, tent, shack, garage, or temporary building or structure of any kind shall be used at any time for a Residence either temporary or permanent, nor shall any overnight camping be permitted on any Lot. Temporary buildings or structures used during the construction or improvement of a Residence must be expressly approved by the Architectural Committee, shall be permitted for only so long as the Architectural Committee may allow, and shall be removed immediately after such permission expires or the completion of construction, whichever first occurs.
- 5.6 Animals. No animals of any kind shall be bred or kept in any Residence or Lot except that a reasonable number of dogs, cats, caged birds and fish of a type customarily kept as household pets may be kept, and, subject to further limitation by these Rules, such other animals as may be permitted by local ordinance may be kept; provided, however, that no animals shall be kept or maintained for any commercial purposes but shall be kept solely as household or yard pets or for recreational use by the Owner, his family, guest or tenants. No animal shall be allowed to make an unreasonable amount of noise or otherwise to be a nuisance. Except in any areas in the Ridge specifically authorized by the Association, no animal shall be permitted outside of the Lot of the Owner of such animal unless such animal is under the control of a responsible person by means of a leash or other reasonable restraint. The Board shall have the right to prohibit the maintenance of any animal which, in the opinion of the Board, after notice and hearing, constitutes a nuisance to any Owner or Owners.
- 5.7 Structures for Animals. No structure for the care, housing or confinement of any animal shall be constructed or maintained except in accordance with the provisions of the Declaration.

ISSUE #1

5.8 Antennae. No antennae for reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors, whether attached to Improvements or otherwise except as mandated by FCC regulation. Transmission antennae shall not be permitted.

- 5.9 Utility Service. No lines, wires of other devices for the transmission of electric current or power of any kind, including but not limited to telephone, television and radio signals, shall be constructed, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables constructed, placed and maintained pursuant to plans and

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 5.8 (p. 8): 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 antennae for reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors, whether attached to Improvements or otherwise except as mandated by FCC regulation. Transmission antennae shall not be permitted.

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).