

MARKUP #1 ->

Townhouse Unit is temporarily residing in a hospital, nursing home, or other type of extended care facility due to a medical condition and advises the Board of Directors in writing of the circumstances and of the Owner's intent to return to the Townhouse Unit.

- ii) The Owner of the Townhouse Unit has leased or rented the Townhouse Unit to any of the Owner's lineal descendants with a written provision providing that any such tenant is absolutely prevented from subleasing or renting such Townhouse unit to any other person except another lineal descendant of the Owner, and, the Owner of the Townhome Unit has provided a copy of the executed lease or rental agreement to the Board of Directors of Pepper Tree Park Homeowners Association, Inc.
- iii) The Owner of a unit makes a written request to the Board of Directors to permit a lease of a Townhouse Unit due to hardship, in which event the Board of Directors shall have the right to extend the term of lease permitted under subsection (i) herein to a period not to exceed twenty-four (24) months in any five (5) year period or to permit a lease not to exceed eighteen (18) months in any five (5) year period in circumstances not otherwise permitted under (i) above. The decision of the Board of Directors shall be absolute and in the sole discretion of the Board of Directors.
- iv) Violation of this restriction shall subject the violating party to judicial relief by way of injunction, specific performance and/or money damages. Violation of this restriction shall not make any lease or similar conveyance void, it being the intention that this restriction be promissory and not disabling.
- d) Except for improvements owned by the Association, only Townhouse Units, which are single family residences which may be joined together by a common wall or walls and/or common roofs and/or foundations shall be constructed upon the Real Estate subject to this Declaration. No Townhouse Unit shall be erected or placed upon the Real Estate unless the same shall contain a minimum of 1150 square feet of total floor area exclusive of porches, basements, attics or garages.

2. Design and Location of Townhouse Units; Additional Use Restrictions

- a) No Townhouse Unit shall be erected, placed, altered or externally improved on any Lot until the building plans and specification of exterior color scheme, materials, grading and the location thereof have been approved by the Association Board of Directors, as set forth in this Declaration.
- b) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.
- c) No signs, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted, except for the following: political signs less than six square feet may be placed within an Owner's property lines no earlier than 45 days prior to an election and no later than 2 days after an election. No awnings, canopies, shutters, or radio and television antennas or satellite dishes shall be affixed to or placed upon an exterior wall or roof of a

ISSUE #1

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 2 (p. 21): 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 or satellite dishes shall be affixed to or placed upon an exterior wall or roof of a

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).