

BOOK 9734 PAGE 489

ISSUE #1

(k) ~~Except as expressly required to be allowed by applicable federal law:~~ (a) no antennas, except those installed by the Declarant, may be erected or maintained; (b) no satellite dishes may be installed on the exteriors of buildings. No transmitting, listening or receiving device may be installed or maintained which may or will interfere with the reception of telephone, television, radio or other similar devices within the Condominium.

(l) The Units and Limited Common Elements, including the areas enclosed by privacy fences so designated a Limited Common Elements on the Condominium Plat, must be kept in an orderly condition so as not to detract from the neat appearance of the community. No motorcycles, no mopeds or other motor driven vehicles may be parked on the patios, balconies, front entrance ways or the yards. No furniture, toys and other structures shall be placed on front or side yards without prior approval. The Board of Directors, in its sole discretion, may determine whether or not Units and Limited Common Elements are orderly. If an owner shall fail to keep his Limited Common Elements orderly, in addition to any other remedy, the Board of Directors may have any objectionable items removed from the Limited Common Elements so as to restore its orderly appearance, without liability therefore, and charge the Unit Owner for any costs and reasonable attorney's fees incurred in the process.

(m) The maintenance, keeping, breeding, boarding and/or raising or animals, livestock, or poultry of any kind, regardless of number, shall be and is hereby prohibited within any Unit or upon any Common Elements, except that this shall not prohibit the keeping of a maximum of two (2) orderly house pets provided that they are not kept or maintained for commercial purposes or for breeding. Pets shall not be permitted upon the Common Elements except in those areas designated by the Board of Directors, if any. All pets shall be accompanied by an adult and are to be carried or leashed. Any member who keeps or maintains any pet upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Association, and each of its members free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Property. The Board of Directors shall have the right to order any person whose pet is a nuisance, to remove such pet from the Property.

(n) No structure of a temporary character, trailer, tent, shack, barn or other out-building, basketball hoop, shall be maintained upon any Common Element or yard or driveway at any time. Permanent outdoor clothes dryers or clothes lines shall not be maintained upon any Common Element at any time. No bird feeders, bird baths, clothing, laundry or the like shall be hung from any part of any Unit or upon any of the Common Elements or from or upon any balcony or patio. Sheds, for storage only, may be permitted upon Limited Common Elements only, but only after submission of complete plans to the Architectural Control Committee and upon its approval, and, provided, the sheds are constructed in the location and manner required by the Architectural Control Committee and maintained, repaired and replaced as required by the Association from time to time. Sheds shall not be converted to living space. Notwithstanding the above, the Board of Directors shall allow such improvements necessary to comply with the laws regarding disabled persons.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 11-1 (p. 23): 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, except those installed by the Declarant, may be erected or maintained; (b) no satellite dishes may be installed on the exteriors of buildings. No transmitting, listening or receiving device may be installed or maintained which may or will interfere with the reception of telephone, television, radio or other similar devices within the Condominium.

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).