

MARKUP #1 ->

and maintain a suitable area designated for the parking of such vehicles or the like. Notwithstanding the provisions hereof, Declarant, the builder of a Living Unit and their contractors may, for the purpose of business use in connection with the development of the Lots or construction of Living Units thereon, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.

(1) No signs, letters, numbers, symbols, markings or illustrations shall be erected, posted, attached, or displayed upon, or on any Lot or Living Unit except:

- (i) street and identification signs installed by the Association or Declarant;
- (ii) one temporary sign, approved by Declarant, informing the public that the real estate is for sale, lease or rent, provided that the sign must not exceed six square feet in area and must be erected upon the real estate to which it refers;
- (iii) a post office house number for designation of home location; and
- (iv) non-commercial signs that are in accordance with the City's Ordinances.

No sign, name plate or postal house number shall be animated or illuminated. This subsection shall not apply to Declarant as long as it is a Class B member, or at any time, to a sign, placed by or on behalf of Declarant, advertising or marketing The Development or any part therein.

ISSUE #1

(m) No outside television or radio aerial or antenna, or other aerial or antenna for reception or transmission, or satellite dish shall be erected, placed on, maintained or allowed to remain on any Lot or Living Unit, without the consent of the Design Review Committee, which will typically require that any such structure be no greater than two (2) feet in height, diameter or width and be encased within appropriate screening.

(n) The covenants and restrictions set forth in this Section 1 pertaining to Living Units and Lots may be altered, amended or rescinded, in full or in part by resolution approved by seventy-five (75%) percent of the total number of votes held by Class A Members. Notwithstanding the foregoing to the contrary, no alteration, amendment, or rescission described in the preceding sentence shall be effective during the Development Period unless the same receives the approval of the Declarant, or during the period the City has the right to select a Member of the Design Review Committee, unless the same receives approval of the City.

**Section 2. Residential Use.** All of the Living Units shall be used for private residential purposes exclusively except that Declarant may and the builders of Living Units may allow the use of Living Units as models and as offices in connection with the marketing or sale of Lots or Living Units in the Development.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. III (p. 18): 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:

No outside television or radio aerial or antenna, or other aerial or antenna for reception or transmission, or satellite dish shall be erected, placed on, maintained or allowed to remain on any Lot or Living Unit, without the consent of the Design Review Committee, which will typically require that any such structure be no greater than two (2) feet in height, diameter or width and be encased within appropriate screening.

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).