

2005-159735

following the date on which the notice is mailed to him by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner. No repair or maintenance of vehicles shall be allowed in parking spaces. All oil or grease on roadways or driveways shall be cleaned up immediately by Owner.

4.11 **Signs.** No signs shall be erected or maintained on any Lot except that not more than one “For Sale” or “For Rent” sign placed by the Owner, Declarant or by a licensed real estate agent, not exceeding twenty-four inches high and thirty-six inches long, may be temporarily displayed on any Lot, subject to the provisions of Section 9.3 below. The restrictions contained in this paragraph shall not prohibit the temporary placement of “political” signs on any Lot by the Owner or Occupant, or construction and marketing related signage by the Declarant or his/her/their contractors. No signs of any kind, other than Declarant’s marketing signs or regulatory signage placed at the direction and approval of the ARC, will be allowed on Common Areas.

4.12 **Rubbish and Trash.** No Lot or part of the Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for timely and proper disposal, out of public view. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets, the Common Areas or any other Lots. Should any Owner fail to remove any trash, rubbish, garbage, yard rakings or any such materials from any Lot, any roadways or Common Area where deposited by him within five days following the date on which notice is mailed to him by the Board of Directors, the Association may have such materials removed and charge the expense of such removal to the Owner. Each Owner is responsible for trash disposal, and shall remove individual trash containers within twelve hours of collection. No trash and storage containers shall be visible from any adjacent street or neighboring Lot, and shall not be allowed to emit any odors or attract insects or rodents.

4.13 **Fences and Hedges.** No fences or boundary hedges shall be installed without prior written approval of the ARC. Any fencing installed on Owner’s Lots either by Owner, or by Declarant, will be Owner’s maintenance responsibility. All fences that are Owner’s responsibility are to be maintained in condition acceptable to Board and ARC. Fences, if any, on Common Area Tracts along the perimeter boundaries of the plat will be maintained by the Association.

4.14 **Service Facilities; Utilities.** Service facilities (e.g. garbage containers, clotheslines, air conditioning compressors, etc.) shall be screened such that the elements screened are not visible at any time from the street or a neighboring property. All utility lines shall be maintained, repaired and replaced by the Owner of each Lot, or all Owners individually and collectively at their sole expense. The Association is not responsible for the maintenance of any utility, cable TV, or phone services of facilities. The exterior location of any heating and air conditioning compressors or heat pumps shall be approved in advance by the ARC. Said locations must take into consideration the noise and view from adjacent Homes.

ISSUE #1 15 **Antennas, Satellite Dishes and Solar Collectors.** No Owner may erect or maintain exterior antennas, microwave, aerial, tower or other devices for the transmission or reception of television, radio or other forms of sound or electromagnetic radiation, or solar collector panels or equipment upon any Lot unless such apparatus is erected and maintained in such a way that it is screened from public view along the street right-of-way directly in front of the house erected on the Lot, the side, in the case of a corner Lot, and from any neighboring Home. No such apparatus shall be erected without the prior written consent from the ARC. Exterior satellite dishes with a surface diameter of twenty-four (24) inches or less may be placed on any Lot so long as they are not, without ARC approval, visible from the street and are screened from all neighboring property. The authority of the ARC in this matter shall be subject to any regulations issued by the Federal Communications Commission (“FCC”) or any other applicable governmental authority.

4.16 **Exterior Lighting or Noisemaking Devices.** Except with the consent of the ARC, no exterior lighting or noise-making devices shall be installed or maintained on any Lot, other than security and fire alarms. False alarms of security and fire systems shall not be allowed to repeatedly occur. Seasonal holiday lighting and decorations are permissible if consistent with any applicable rules and regulations and if removed within thirty days after the celebrated holiday.

4.17 **Grades, Slopes, and Drainage.** There shall be no interference with the established drainage patterns or systems over or through any Lot so as to affect any other Lot or Common Area or any real property outside project unless adequate alternative

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 4.15 (p. 9): 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:

A n t e s e a s , Satellite Dishes sad Solar Collectors. No Owner may erect or maintain exterior antennas, microwave, aerial, tower or other devices for the transmission or reception of television, radio or other forms of sound or electromagnetic radiation, or solar collector limas or equipment upon any Lot unless such apparatus is erected and maintained in such a way that it is screened from public view along the street right-of-way directly in front of the house erected on the Lot, the side, in the case of a corner Lot, and from any neighboring Home.

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).