are responsible for member-installed additional plantings along the sides of end units and member-installed rear plantings for all units, including those planted by previous owners of their units. Members are encouraged to water all plants around their unit, including original plantings, especially during periods of low rainfall. Any diseased or dead plants for which a member is responsible must be removed at the member's expense. If the plants are not replaced, the holes must be filled to ground level and either mulched or seeded, as appropriate. Any mulch placed by the member must be brown shredded mulch. These responsibilities transfer to all subsequent owners of the unit.

Sec. 7 Auxiliary Energy Devices- Any member who wishes to use a backup electrical generator on the outside of his/her unit must receive permission for size, color, fuel, and location in writing from the Executive Board. If permanently installed, any such approved generator must be installed by a licensed and insured contractor. If portable, the backup generator must only be operated outside of and 10 feet away from any building, and must be stored in the member's garage when not in use.

Sec. 8 Damage- Any damage done to common areas or exterior surfaces for which the Association is responsible (including, but not limited to, any lawns, landscaping or trees, drains, siding, roofs, rain gutters, downspouts, steps, walkways, driveways, curbs, or roadway surfaces) by a member or his/her family member, household member, visitor, contractor, workman, supplier, or pet must be promptly repaired by, and at the sole cost of, the member to the satisfaction of the Executive Board. In the event the Association makes the repairs, the member shall reimburse the Association for the full cost of the repairs. Similarly, the member is also responsible for cleaning up any debris and visible stains outside.

Sec. 9 Ornaments and Decorations- Except for appropriate temporary holiday decorations, exterior ornaments and decorations (including, but not limited to, statues, figurines, globes, bird feeders, birdhouses, pots, and planters) are prohibited in the common area. These items must be confined to the front porch and railing, and in the case of the high-rise units, to the front steps and railing. A maximum of eight (8) small solar lights may be placed in the front entry mulched area for sidewalk illumination. Six (6) small solar lights may be used to illuminate a rear patio but may not be placed in the lawn area. Any member in good standing who wishes to decorate at his/her own expense a portion of the common area with appropriate holiday lights and decorations must send a written request to, and receive written approval from, the Executive Board. The request must include a description of the proposed lighting and decorations, the proposed location, and the proposed dates that the area will be decorated.

Sec. 10 Association Control of Contractors- No member may supervise, direct, or attempt to assert control over the Association's contractors or their employees or request that they perform any personal service during the course of performing work for the Association.

Sec. 11 Garage Sales- One Association-sponsored weekend garage sale per year is authorized. This will generally take place in mid-summer, and members will be notified of the dates in advance in the Newsletter. Participating members are required to contribute equally to the cost of advertising the sale. Individual garage/yard/tag sales are prohibited, except that a member who is moving may conduct one moving sale, not to exceed three consecutive days. The Executive Board must be notified in writing in advance of any moving sale.

ISSUE #1

Sec. 12 Satellite Dishes- The Executive Board must be notified in writing in advance of the placement of any satellite dish so that that the Executive Board can determine an acceptable location. No satellite dish may be installed on any roof or to the siding of any unit, nor may a

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 4 (p. 14): FCC OTARD preemption conflict (47 C.F.R. § 1.4000): Outright antenna/satellite-dish prohibition, sub-1-meter diameter cap, mandatory cable-hookup removal, permit fee, or unqualified front-elevation/street-visibility ban is unenforceable as applied to covered <= 1-meter reception devices on exclusive-use property.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: Under the FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, including FCC 21-10), preemption applies to covered direct-broadcast satellite (DBS/DSS) dishes one meter (39.37 inches) or less in diameter, television broadcast antennas, and fixed wireless broadband antennas installed within areas under the owner's or occupant's exclusive use or control. Outright bans, sub-1-meter diameter caps, monetary permit fees, mandatory removal upon cable availability, and unqualified front-elevation or street-visibility prohibitions that preclude an acceptable quality signal are preempted unless justified by a documented safety objective (§ 1.4000(b)(1)) or a National Register historic site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:

No satellite dish may be installed on any roof or to the siding of any unit, nor may a satellite dish be installed in the front of any unit.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that for covered reception antennas and satellite dishes one meter (39.37 inches) or less in diameter installed within areas under the owner's or occupant's exclusive use or control, this provision shall be administered in accordance with 47 C.F.R. § 1.4000 without outright prohibition, permit fee, or placement/size limits that preclude an acceptable quality signal, while preserving association authority over shared common elements, dishes exceeding one meter, documented safety objectives (§ 1.4000(b)(1)), and historic preservation sites (§ 1.4000(b)(2)).