2.18 VEHICLES.

Other than private passenger vehicles, vans, trucks, or permitted commercial vehicles in regular operation, no other motor vehicles or inoperable, unlicensed, junk or junked cars, or other similar machinery or equipment of any kind or nature (except for such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance of any Lot) may be kept on the Property. Motorcycles must be properly licensed and may be kept only in parking spaces specifically designated for motor vehicles.

Commercial vehicles over three-fourths (3/4) ton rated capacity ("Commercial Vehicles") may not be parked on any part of the Property longer than is necessary to perform the business function of that vehicle in the area; it being the express intention of this restriction to prevent the parking of Commercial Vehicles upon the Property. A vehicle is inoperable unless it is licensed, contains all parts and equipment, including properly inflated tires, and is in such good condition and repair as may be necessary for any person to drive it on a public highway.

Commercial Vehicles, trailers, boats, buses, campers, or tractors may not be parked, stored, maintained, or repaired on any Lot. During the construction of a dwelling on a Lot, however, Declarant and the Builder may maintain Commercial Vehicles and trailers on the Lots or Property for purposes of construction and for use as a field or sales office. Commercial Vehicles, trailers, boats, buses, campers, or tractors may not be parked upon any streets, rights of way or in the Common Area, except in an area, if any, specifically designated by the Architectural Review Committee for such parking. Vehicles of any type may not be repaired on the Property except in emergencies.

ISSUE #1

2.19 LIGHTING AND WIRING.

All exterior lighting on Lots must be directed downward and may not be directed outward from, or extend beyond, the boundaries of any Lot. All wiring on any Lot must be underground. No exterior radio, television, or citizens band radio antennae or other broadcasting or receiving apparatus are permitted upon any Lot; except that television microwave or satellite dishes having a diameter of not more than eighteen inches may be installed with the written approval of the Architectural Review Committee and in the sole discretion of the Architectural Review Committee as to size, type, and location. Exterior Christmas lights and/or ornaments shall be permitted, provided that such lights and/or ornaments are not erected before November 15th of the year of the holiday and are removed no later than January 15th of the year following the holiday.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 2.19 (p. 16): 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:

LIGHTING AND WIRING. All exterior lighting on Lots must be directed downward and may not be directed outward from, or extend beyond, the boundaries of any Lot. All wiring on any Lot must be underground. No exterior radio, television, or citizens band radio antennae or other broadcasting or receiving apparatus are permitted upon any Lot; except that television microwave or satellite dishes having a diameter of not more than eighteen inches may be installed with the written approval of the Architectural Review Committee and in the sole discretion of the Architectural Review Committee as to size, type, and location.

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)).