

including, without limitation, any continuing rights of Developer after the Developer’s Class “B” Membership has converted to a Class “C” Membership as set forth in this Declaration.

(P) “DEVELOPER IMPROVEMENTS” shall mean and refer that portion of the Common Area that are Improvements constructed by or on behalf of the Developer.

(Q) “DIRECTOR” shall mean and refer to an appointed or elected member of the Board of Directors.

(R) “DWELLING” shall mean and refer to a single family home, patio home, garden home, townhouse, condominium unit, or apartment, if constructed in the Community.

(S) “FIRST LIEN MORTGAGEE” shall mean and refer to a bank, mortgage company or other institution in the business of loaning money that holds a first priority mortgage or deed of trust on a Lot or Dwelling in the Community.

(T) “IMPROVEMENT” shall mean and refer to any thing or object upon any portion of the Property including by way of illustration and not limitation, any Dwelling or building or part thereof, garage, porch, shed, mailbox, greenhouse, or bathhouse, coop or cage, covered or uncovered patio, siding, doors, fixtures, equipment, and appliances (including without limitation the heating and air-conditioning system for the Dwelling), furniture, glass, lights and light fixtures (exterior and interior), awnings, window boxes, window treatments, window screens, screen or glass-enclosed porches, balconies, decks, chutes, flues, ducts, conduits, wires, pipes, plumbing, and other like apparatus, playgrounds, playground equipment, tree houses and yard art, statuary, basketball goals (permanent or temporary), or other temporary or permanent sports equipment, swimming pool, fence, curbing, paving, driveways, walkways, wall or hedge, radio, television, wireless cable, or video antenna, satellite dishes, yard, lawn, landscaping, trees, shrubs, bushes, grass, well, septic system, sign, appurtenance, or signboard, whether temporary or permanent; any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of waters from, through, under or across any portion of the Property, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any portion of the Property; and any change in the grade of any portion of the Property of more than six (6) inches. The foregoing items are listed only as examples of items that would constitute Improvements, if constructed or located on the Property, and their inclusion in this definition does not imply that each such item will be approved by the Architectural Control Authority or constructed by the Developer or any other person or otherwise exist on the Property.

(U) “LOT” shall mean and refer to any parcel of land with such Improvements or Dwellings as may be erected or placed thereon, shown and described as a “Lot” on any recorded Plats of the Property, but shall not include the Common Area, Area of Extended Lot Owner Responsibility, Area of Common Responsibility or the streets or road rights-of-way in the Community.

(V) “MASTER ASSOCIATION” when and if created, shall mean and refer to any incorporated or unincorporated association to which or from which is delegated specific

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. i (p. 13): 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:

television, wireless cable, or video antenna, satellite dishes, yard, lawn, landscaping, trees, shrubs, bushes, grass, well, septic system, sign, appurtenance, or signboard, whether temporary or permanent; any excavation, fill, ditch, diversion darn or other thing or device which affects or

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).

ISSUE #1