

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Section Eight: No unsightly conditions shall be permitted to exist on any Lot. Unsightly conditions shall include, without limitation, laundry hanging or exposed in view for drying, litter, trash, junk or other debris; inappropriate, broken, or damaged furniture or plants; nondecorative gear, equipment, cans, bottles, ladders, trash barrels and other such items; and no awnings, air conditioning units or other projections shall be placed on the exterior walls of any Housing Unit unless prior written approval shall have been obtained as provided in the Declaration.

Section Nine: No radio or television antenna or transmitting tower shall be erected.

Section Ten: Except as hereinafter expressly provided, the Common Areas and/or streets located on the Properties shall not be used for the overnight parking of any vehicle other than private family automobiles; and no boat, boat trailer, house trailer, camper, truck or other recreational vehicle or similar object, or any part thereof, shall be stored or permitted to remain on any Lot, or the Common Areas, or on any part of the Properties, unless the same is stored or placed in a garage.

Notwithstanding the foregoing, Lot Owners who have guests visiting them intending to stay in a camper, trailer, or other form of recreational vehicle, may secure written permission from the Board of Directors or its authorized representative, for said guests to park said vehicle upon the Lot owned by said Lot Owner or the public street adjacent to said Lot for a period of up to two weeks. Said privilege shall only exist, however, after the written permission has been obtained from the Board of Directors or its authorized representative.

The Board of Directors or its authorized representative shall give written notice of a violation to the Lot Owner or occupant and said Lot Owner or occupant shall have ten (10) days from the date of receipt of said written notice to take whatever actions are necessary to remedy said violation. If said Lot Owner shall not comply within said ten-day period, the Board of Directors or its authorized representative is hereby granted the right to remove at the expense of the owner thereof, any boats, trailers, campers, trucks, recreational vehicles, or similar items which are parked or stored in violation of the terms and provisions hereof. Said Lot Owners hereby grant to the Association an express easement for the purpose of going upon the Lots of said Lot Owners or public streets for the purpose of removing said boats, trailers, campers, trucks, recreational vehicles, or similar items which are parked or stored in violation of the terms and provisions hereof.

Section Eleven: In addition to other rights reserved to the Developer or its successors or assigns in the Declaration, the Developer hereby reserves for itself, its successors or assigns so long as it owns any Lot, the right to maintain upon the Properties such signs as in the sole opinion of the Developer are required, convenient or incidental to the sale of Lots.

Sec. 02218.5 (p. 11): 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 radio or television antenna or transmitting tower shall be erected. Section Ten: Except as hereinafter expressly provided, the Common Areas and/or streets located on the Properties shall not be used for the overnight parking of any vehicle other than private family automobiles; and no boat, boat trailer, house trailer, camper, truck or other recreational vehicle or similar .

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).

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