

MARKUP #1 ->

(b) Board Actions Requiring Member Approval. The Board of Directors shall not take any of the following actions without the consent of a simple majority of the Members constituting a quorum of more than fifty percent (50%) of the Voting Power of the Members of the Association:

(i) Enter into a contract with a third party for the furnishing of goods or services to the Common Areas or the Association for a term longer than one year. This restriction shall not apply to:

(A) FHA or VA approved management contracts;

(B) public utility contracts where the rates charged for materials or services are regulated by the Public Utilities Commission; provided, however that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(C) prepaid casualty or liability insurance policies not to exceed three years, provided the policies provide for short rate cancellation by the insured;

(D) ~~agreements for cable television services and equipment or~~  
satellite dish television services and equipment of not to exceed five (5) years duration; and

(E) any contract that is for a term not to exceed three years so long as the contract is terminable by the Association after no longer than one year without cause, penalty or other obligation upon ninety (90) days prior written notice of termination to the other party.

(ii) Incur aggregate expenditures for capital improvements to the Common Areas in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that year.

(iii) Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(iv) Pay compensation to members of the Board of Directors or the officers of the Association; provided, however, that directors and officers can be reimbursed for reasonable out-of-pocket expenses, verified in writing, incurred in carrying on the business of the Association.

(v) Fill any vacancy on the Board of Directors created by the removal of a director by election of the Members.

(vi) Enter into a Residence or Lot in a non-emergency situation unless the Owner is furnished with at least twenty-four (24) hours' written notice, except in the case of an emergency as more particularly described in Section 3.06(b) of the Declaration.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

**Sec. 9.02. (p. 40): 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:**

satellite dish television services and equipment of not to exceed five (5) years duration; and (E) any contract that is for a term not to exceed three years so long as the contract is terminable by the Association after no longer than one year without cause, penalty or other obligation upon ninety (90) days prior written notice of termination to the other party.

**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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