

ISSUE #1

MARKUP #1 ->

Section 1: [Article 12, Section (d)] Prohibition on Exterior Radio or Television Antennae and Window Signs

(d) Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of any of the buildings and no sign, awnings, canopies, shutters or radio or television antennae shall be affixed to or placed upon the exterior walls or roofs or any part without the prior consent of the Association nor shall they cause or permit anything to be hung or displayed on the inside of windows intended to be seen from the outside including without limiting the foregoing, For Sale signs and the like.

Section 2: [Article 12, Section (e)] Permanent Removal of Any Pet Upon Three Days' Written Notice Without Hearing

(e) No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any unit or in the common elements, except that dogs, cats or other household pets may be kept in the units subject to the rules and regulations to be adopted by the Executive Board provided they are not kept, bred or maintained for any commercial purposes and provided further, that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the property upon three days' written notice from the Executive Board. A unit may not house more than one dog and one cat at any time...

Section 3: [Article 12, Section (m)] Daily \$100 Fines Without Statutory Pre-Enforcement Notice and Hearing Procedure

In order to carry out the intent of these restrictions, the Association shall further have the right to levy fines for violations of these regulations, provided that the fine for a single violation may not, under any circumstances, exceed \$100.00. For each day that a violation continues after notice it shall be considered a separate violation.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. Article 12, Section (d) (p. 1): 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 (OTARD Rule)

Statutory Comparison: The FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000) preempts community association restrictions that prohibit, require prior architectural approval for, or impose sub-1-meter (39.37-inch) diameter caps on the installation, maintenance, or use of antennas and satellite dishes 1 meter or less in diameter situated on property within the exclusive use or control of the owner/tenant.

CURRENT WORDING IN DOCUMENT:

[Article 12, Section (d)] Prohibition on Exterior Radio or Television Antennae and Window Signs - (d) Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of any of the buildings and no sign, awnings, canopies, shutters or radio or television antennae shall be affixed to or placed upon the exterior walls or roofs or any part without the prior consent of the Association nor shall they cause or permit anything to be hung or displayed on the inside of windows intended to be seen from the outside including without limiting the foregoing, For Sale signs and the like.

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 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).