This is part 2 of the
Review of Proposed New Strand Master Governing Documents
Issued 11-19-2021

New Declarations - Section 8. USE RESTRICTIONS
by RJ Polizzotto 12-8-2021

8.6 Nuisances.

The New Proposed Documents have the following sentence added to this section: "*The Board's determination as to what constitutes a nuisance or annoyance shall be dispositive and shall control without regard to any legal definition of such terms*".

a. Is the correct interruption of this sentence to mean that the Board Directors and only the Board will determine if a member is creating a nuisance without regard for any legal standards, e.g. Collier County ordinances, etc.?

b. Once the Board decides that something is a nuisance, will this decision become a standard that will apply with a future board? For example, loud music emanating from a home/condo after 6 PM is considered a nuisance by one Board, will this then be the "standard" that will apply towards occurrences considered by a future Board?

Complete Deletion of Section:
The New Documents Completely Eliminated the original Section 10. 6. Annoying Lights, Sounds or Odors. That section stated: "*No light, sound or odor shall be emitted from any Parcel which is obnoxious or unreasonably offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices or lights, other than devices used exclusively for security, fire prevention or fire control purposes, shall be permitted*".

c. Why was this Restriction completely deleted?

d. Is it now permitted to install outdoor speakers, play musical instruments on the lanai, etc. as long as the Master Board doesn't think it's a nuisance to the neighbors?

There is a distinction between not permitting something and a Board's opinion that it's a nuisance especially when the Board hasn't published any acceptable standards. The concern is that with the Board having complete authority over the members without regard to local county ordinances, the situation may become a major legal issue with resulting lawsuits against the Board.

8.19 Wells; Laundry Lines.

This section in the Proposed New Documents now states: "Private wells are strictly prohibited. No laundry lines or poles shall be permitted".

For some reason the following words were arbitrarily deleted from the original documents after the word "permitted": "….**except for those which are retractable, and which shall remain retracted except when in use. Permitted exterior laundry lines and poles, shall be located only as permitted by the Master Association, and screened by landscaping or other features so as to not be readily seen by others".**

(**PS: Please note that once again there occurred a major change in the New Proposed Documents without any mention of it in any correspondence from the Master Board. I'm concerned that there are a number of other instances of changes to the Documents that the Board decided without any notification or input from members and have left it up to the members to locate the changes. This is another reason some sort of delineation of the changes would have been helpful.**)

As you may know, many homeowners have "drying racks" or "drying poles" by their pool areas or out on their lanai for the placement of wet bathing suits, towels, etc. for the solar drying of clothes. I read that lawmakers in some 19 states have agreed and enacted "right to dry" laws that prohibit clothesline bans. As such, the HOA Board cannot prohibit their use but can only provide restrictions on location, etc.

I reviewed the Florida Statutes. Below you will find a Statute which specifically addresses this:

2021 Florida Statute 163.04 - Energy devices based on renewable resources - This statute says in part (emphasis mine): "*A **deed restriction, covenant, declaration**, or similar binding agreement **may not prohibit** or have the effect of prohibiting solar collectors, **clotheslines,** or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement".*

a. It appears from this that the Strand Master Board cannot prohibit the use of clotheslines or other solar energy drying devices for drying clothes. Is that correct?

b. The original documents were written to allow members to install these types of devices but with restrictions on type and location (e.g. back lanai pool area, etc). Why did the Board unilaterally DELETE the words from the original documents without any notice to the members?

8.7 Signs.

The last sentence of this section of the Proposed Documents reads (highlighted for emphasis): "No political signs or flags of any type shall be permitted on Strand Boulevard, Ashford Lane or in any neighborhood".

a. What is the definition of "political" in this Section? Is a college or football team flag considered "political?

b. Does this mean any "Political signs and (political) flags" or no flags of any type?

c. Doesn't Florida Law allow a member to display American Flags and Armed Forces flags on certain days?

d. Would a political flag or "bumper sticker" on a member's vehicle or golf cart be prohibited and subject a member to fines?

e. Since a member is responsible for the actions of their guests, would the member be liable if a member's guest has a political flag on their vehicle when they visit the member?

f. If a golf club member drives to the club along Strand Blvd. and they have a flag or "political" bumper sticker on their car, will they be fined even though they are not members and only going to the Club?

g. If no "political" flags are permitted on Strand Blvd, by what law can the Master Board restrict the use of Strand Blvd. , for ingress and egress, if they have a "political" flag attached to their vehicle?

As you can see, there are so many circumstances where the Board would have to intervene. It would be better to limit the time when Political flags and signs can be displayed. For example, they are only allowed 30 days before a State or Federal election. It would also be applicable to exclude from this restriction signs, bumper stickers or flags on vehicles.

Currently some Neighborhoods already have specific rules that regulate the display of "political" signs and flags.

8.9 Vehicles, Boats, Trailer and other Equipment Restrictions.

1. A sentence was added in the beginning of the new section that states: "No maintenance or mechanical repairs of vehicles or boats is permitted on the Property outside of garages except in an emergency".

a. Is the Master now requiring Members to perform routine "maintenance" and inspections on their vehicle in the confines of their garage?

For example, these routine inspections may include: checking the car's tire pressure or motor oil; adding windshield fluid; changing wiper blades; changing an air filter; etc.

b. If a member performs these minor routine maintenance or inspections outside in their own driveway, will they be in violation of the Rules and subject to fines?

2. The fourth paragraph, pertaining to what is not considered an abandon vehicle in this Proposed Section, has a phrase that was deleted from the Original Declarations . The new Proposed Section states (deletion shown highlighted for clarity): "*Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three (3) weeks or longer, provided, however, this shall not include vehicles parked in an enclosed garage. ~~Or operable vehicles left on the Parcel by Owners while on vacation."~~*

These last few words were eliminated in the Revised Documents and therefore if your car or a guest's car is left in your driveway or Neighborhood parking area and doesn't get used for a while, e.g. your went on vacation and after three (3) weeks your car will be classified as an abandoned vehicle. Then according to the new Documents, it will be subject to being towed or "booted".

a. Why were these words deleted from the original Documents?

b. Since the "Restriction" was changed from what members' originally agreed to when their home was purchased, are they "grandfathered" with the original restriction appling to them?

The individual neighborhoods should decide what is reasonable or if they have issues with a particular practice. It appears that the Master Board has decided to further restrict a member's right to enjoy their property. The Master doesn't have to oversee every aspect of a member's life or every neighborhood. That is why we have individual neighborhoods with our own rules and regulations specific to our community and our way of life.

8.14 Air Conditioning Units.

This section of the Proposed Documents states: "No window or wall air conditioning units shall be permitted on any Parcel".

a. There are some homeowners that have window or wall air conditioning units that were approved by the previous Boards. Are they "grandfathered"?

b. In the case of an emergency, e.g. damage to main unit, can a homeowner install a window unit on a temporary basis?

8.16 Walls, Fences, Hedges.

The following sentence was added to the Proposed Documents: "**No dog runs, animal pen or fences for the containment of animals of any kind shall be permitted".**

a. Does the word "fences" include "electronic or invisible fences", i.e. those with wires buried in the ground to prevent a dog from exiting the property?

As you may know, some Neighborhood Documents specifically prohibit "electronic fences" for containment of animals.

b. Does this restriction apply to members who have a "dog crate" inside their home?

8.24 Window Coverings.

In this section, the word "~~conservation~~" was deleted and replaced with the word "Preserve". I don't think there are any window tinting methods of "energy preserve". It was probably just a typo due to document review. You might want to change this word back to "conservation".

8.28 On-Site Fuel Storage.

The first sentence of this section of the Proposed Documents now reads: "*A reasonable quantity of gasoline, propane or other fuels necessary to power portable generators, gas grills and other similar equipment shall be permitted to be stored in an enclosed portion of a parcel*".

There is a conflict with this statement. In case you are not aware, outdoor portable grills (i.e. like those purchased from Home Depot) have their propane bottles attached to the grill, e.g. under the grill and connected via a hose and regulator.

a. Is the Master Board NOW requiring that a member remove this propane bottle from their outdoor grill and store it inside his house or garage after they finished using the grill?

This is a complete over reach by the Master Board. To correct this it would be just a matter of deleting the words "in an **enclosed portion of**" and replace with the word "on".

b. Per the 2015 Amended Documents, there was a limit to the amount of fuel a member can store for the purposes listed. That is been replaced with the word "reasonable" which allows the Master Board to decided. Why was the limit removed?

Without a specific limit, each future Board can decide on an amount to what is "reasonable".

The word "**reasonable**" should be changed back to the Amended Documents value of 20 gallons.