

plat of the subdivision. Neither a completed building nor any construction process may restrict access to, or make encroachment upon these easements, except for a driveway the location of which has received the unanimous approval of the committee.

ISSUE #1

N.

All outside antennas, ham radio antennas and satellite dishes, receivers or transmitters are prohibited except for an antenna or satellite receiver operated by the Property Owners Association for the benefit of all residents of the subdivision.

- O. **Mailboxes.** Mailboxes will be constructed in accordance with plans available from the Committee.
- P. **Play Equipment and Tree Houses.** Although play equipment may be installed in common areas at the discretion of the Association, such equipment will not be permitted to be installed on any lot unless such equipment is of wood construction. No tree house shall be constructed on any lot. Basketball goals shall be painted or finished to match the color of the house or to blend with the landscape.
- Q. **Offensive Activities.** No trade or business and no noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 52 (p. 31): 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:

All outside antennas, ham radio antennas and satellite dishes, receivers or transmitters are prohibited except for an antenna or satellite receiver operated by the Property Owners Association for the benefit of all residents of the subdivision.

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).