

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

16. NO DUMPING GROUND. No lot shall be used or maintained as dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of any such material shall be kept in a clean and sanitary condition. The use of all or any portion of any lot within the property for outside materials storage shall be prohibited, and no harmful or noxious materials shall be stored either inside any structure or outside any structure.

17. TEMPORARY STRUCTURES. No trailer, tent shack, barn, servant house, garage, or other outbuilding (portable or otherwise) shall be erected on any Lot within the Property prior to the completion of a dwelling house or at any time thereafter.

18. STORAGE OF BOATS, TRAILERS AND OTHER VEHICLES. Boats, boat trailers, pick-up campers, mini motor homes, buses, commercial vehicles, motor homes and trailers of any kind must be parked or stored only in an enclosed garage or a carport, and may not be parked on the street or in any open parking area. No unused or inoperable automobiles shall be permitted on any lot and no automotive repair shall be conducted on any lot, except for temporary repairs effected by authorized outside mechanics.

19. GARAGE DOORS. Garage doors are of the solid-panel type and are an important architectural feature of the house, therefore they are to remain closed except while in use as ingress or egress.

20. BINDING EFFECT AND TERM. The covenants and conditions herein contained are to run with the property and shall be binding on all parties and persons claiming under them for a period of fifty (50) years from the date of the recordation of this instrument, after which time said covenants and conditions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of a majority of the lots within the property has been recorded agreeing to change the covenants and conditions herein contained in whole or in part.

ISSUE #1

ANTENNAES OR UTILITIES. No antennae, satellite dish, burgular alarm speakers, security lights, or the like shall be mounted on the front of the home or on the exterior in such a way as to be visible from the street.

22. ENFORCEMENT. Enforcement of the provisions of this instrument may be by the Committee or by the owner of any lot located within the property and subject hereto by filing proceedings at law or in equity against any person or persons violating or attempting to violate same. Any party so enforcing these covenants shall be entitled to equitable relief, the recovery of damages resulting from any such violation, and a reasonable attorneys fee.

Sec. 11 (p. 9): 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 antennae, satellite dish burgular alarm speakers l security lights, or the like shall b~ mounted on the front of the home or on the exterior in such a way as to be visible from the street; E~ ~".

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).