

MARKUP #1 ->

(l) No individual water supply system shall be permitted on any Parcel unless the system in all respects, complies with the requirements and recommendations of all state and local laws and regulations. Approval of any system as installed shall be obtained from all government agencies.

(m) No individual sewage disposal system shall be permitted on any Parcel unless the system, in all respects, complies with the requirements and recommendations of all state and local laws and regulations. Approval of any system as installed must be obtained from all government agencies.

(n) No shrubs or trees shall be planted on street corners or beside driveways that will impede the view or sight of pedestrians or operators of automobiles.

(o) Upon the completion of a dwelling, all front and side yards must be landscaped with sod and other landscaping approved by the Architectural Review Committee. The rear yard must be hayed, seeded or sodded.

ISSUE #1

(p) No outside radio, television, ham broadcasting or other electronic antenna, aerial or tower, or any satellite dish or similar structure, shall be erected or maintained on any Parcel, except as approved in writing by the Committee, and none shall be visible from the front of any dwelling. With regards to satellite dishes only... Should it be determined by the satellite provider or its affiliates, which includes their contractors and/or subcontractors, that it is necessary for the dish to be installed in an area that would normally be in violation of the covenants, a signed letter must be obtained from the dish provider or said affiliates stating that alternate dish placement is necessary in order for reception to be successful. This letter must then be submitted to the Committee along with a request for a variance from the covenant stated above. Variances will be granted at the sole discretion of the Committee. If no response is received from the Committee within thirty (30) days of the date of the variance request, said variance will be approved by default.

(The above was amended by filing with the Shelby County, AL Judge of Probate November 27, 2012.)

(q) All driveways must be concrete finish. All Parcel Owners shall install concrete sidewalks on each Parcel parallel with the street.

(r) To insure the maintenance of the natural beauty, no Parcel Owner shall dam up the creeks, which flow through the subject Property, nor shall any Parcel owner change the flow of any creek or any wet weather streams.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. (k) (p. 10): 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:

(p) No outside radio, television, ham broadcasting or other electronic antenna, aerial or tower, or any satellite dish or similar structure, shall be erected or maintained on any Parcel, except as approved in writing by the Committee, and none shall be visible from the front of any dwelling.

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).