

- C. On corner Lots, no fence may protrude beyond the building line of any adjacent Lot.
- D. No standard chain link, wire, vinyl, or metal fence on any kind may be constructed. Black, brown or gray fencing will be allowed if not visible from the street. Wrought Iron will be allowed within view of the street.
- E. All street facing fences must have stone columns with a minimum spacing 25 feet on center. Stone columns are to match stone used on the house.

MARKUP #1 ->

ISSUE #1

Utilities, Wiring and Antennas.

- A. To the extent of the interest of the Owner of a Lot within the Property, no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Lot and no external or outside antenna of any kind shall be maintained within view of the street.
 - B. To extent of the interest of an Owner of a Lot, will not erect or grant any person, firm or corporation a right, license or privilege to erect or permit the use of overhead wires, poles, or overhead facilities of any kind for electrical or telephone services on the Property (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave the particular area) without the prior written consent of the ARB.
 - C. To the extent of the interest of the owner of each Lot, such Owners agree to connect utility service lines (including, but not limited to, gas, water, sewer, cable television, and electricity) at points designated by the Founder. Such connection from the pole shall be underground unless otherwise approved by ARB.
10. Easements. Easements to each Lot for the installation and maintenance of utilities and drainage facilities are reserved as shown on the subdivision plats now or hereafter filed for the Property. Known easements to include the designated sewer easement and landscape buffer as stated in the engineering covenants.
11. Mailboxes and Lamp Posts. All mailboxes, lamp posts, street lighting and posts must be models and purchased from vendors specified by ARB, and constructed and located according to the Founder's specifications and according to the design theme established in the design criteria documents.
12. Landscaping. Since the area is mostly “natural”, the landscape criteria require that at least 30% of the front landscaped area be cleared and landscaped with straw or bark. Further, the area approaching the driveway must be landscaped to establish a more “groomed” area for approach. The front of the home, including the approach area at the mailbox and driveway must be presented and approved by the ARB before final design approval will be granted.
13. Trees and Tree Deposit. Trees having diameters of greater than 10 inches for each Lot must be

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. C (p. 5): 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:

Utilities. Wiring and Antennas. A. To the extent of the interest of the Owner of a Lot within the Property, no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Lot and no external or outside antenna of any kind shall be maintained within view of the street.

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).

