

PONDEROSA TRAILS HOA (A Single Family Home Community)
Architectural Committee Rules Adopted September 29, 2016, revised 07.13.23

MARKUP #1 ->

2.3 Walls and Fencing

Subject to the prior review and approval by the Architectural Committee, fencing will be allowed provided the Architectural Committee has determined it is consistent with other fencing in Ponderosa Trails and provided the proposed fencing is in harmony with the goals of these Design Standards. No concrete block walls will be allowed.

The only acceptable fencing is natural or composite wood slats on galvanized steel posts, or Wrought iron/steel fences in view situations. No fence shall exceed six feet in height as measured from the existing natural grade. Galvanized steel posts must face the interior of the Lot.

Fence coatings are required and must be approved in advance by the Architectural Committee. Solid stains will be considered for fences on a case by case basis. Painting of wood fences will not be allowed.

Maintenance of fences constructed upon or near the dividing line between the Lots are the shared responsibility of the owners of both adjoining lots; except where a fence is adjacent to a Common Area, it is the Lot owner's sole responsibility to maintain the fence. Please refer to CC&R Section 7.3.

Galvanized steel posts and crossbars shall not be painted. Wrought iron/steel view fences must be painted, or powder coated black, or earth tone colors as approved by the Architectural Committee, and maintained in a rust free condition.

Structural retaining walls must not exceed six feet in height, measured from existing natural grade. Any walls with more than four feet of unbalanced fill (a four foot differential of fill between one side of the wall and the other) requires an engineer's stamp on the plans, and a building permit from the City of Flagstaff.

2.4 Service Yards

Fencing will be required for service yards, if any, to enclose any trash containers, firewood, outdoor maintenance or service equipment, or any other goods to be stored outside. See paragraph 2.3 for fencing standards.

2.5 Mechanical Equipment

Roof mounted or wall mounted mechanical equipment must be approved. Any exterior mechanical equipment required must be ground mounted adjacent to the residence and shielded from view by approved fencing of sufficient height to buffer sound.

2.6 Antennae and Satellite Dishes

Subject to applicable laws, no antenna, satellite television dish antenna, abandoned equipment or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, but without limitation, Citizen's Band or Ham Radio signals shall be erected, used or maintained outdoors on any Lot without the prior written approval of the Architectural Committee.

ISSUE #1

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 2.6 (p. 3): 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:

Antennae and Satellite Dishes Subject to applicable laws, no antenna, satellite television dish antenna, abandoned equipment or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, but without limitation, Citizen's Band or Ham Radio signals shall be erected, used or maintained outdoors on any Lot without the prior written approval of the Architectural Committee.

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).