

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

(g) Diseases and Insects. No owner shall permit any thing or condition to exist upon any Lot or Parcel which shall induce, breed or harbor infectious plant diseases or noxious insects.

(h) Repair of Building and Improvements. No building, structure or improvements on any Lot or Parcel shall be permitted to fall into disrepair and each such building, structure or improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building, structure or improvement is damaged or destroyed, then, subject to the approvals required by Subsection (a) above, such building, structure or improvement shall be immediately repaired or rebuilt or shall be demolished.

ISSUE #1

(i) Antennas. Unless governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, no antenna or other device for the transmission or reception of television, internet or radio signals or any other form of electromagnetic radiation or any associated equipment shall be erected, used or maintained outdoors on any Lot or Parcel or Common Area, whether attached to a building or structure or otherwise, so as to be Visible From Neighboring Property or Public View, unless approved in writing by the Architectural Committee. Any device governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, shall comply with the applicable Antenna Installation Rules of the Association and shall be mounted, to the extent reasonably possible, so as to not be Visible From Neighboring Property or Public View.

(j) Mineral Exploration. No Lot or Parcel (other than a Parcel designated as a Well-Site) shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

(k) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Parcel, except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from the Lots and Parcels and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot or Parcel. Trash dumpsters used during construction may be placed only on the Owner's Lot or Parcel and shall not be permitted to block any sidewalk or street and shall not remain on the Owner's Lot or Parcel for a period exceeding ninety (90) days unless otherwise approved by the Architectural Committee. The Owner must obtain the prior approval of the Architectural Committee before placing any dumpster on a Lot or Parcel.

(l) Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot or

Sec. 1 (p. 20): 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:

Antennas. Unless governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, no antenna or other device for the transmission or reception of television, internet or radio signals or any other form of electromagnetic radiation or any associated equipment shall be erected, used or maintained outdoors on any Lot or Parcel or Common Area, whether attached to a building or structure or otherwise, so as to be Visible From Neighboring Property or Public View, unless approved in writing by 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).