

BOOK 15470 PG 170

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

more than Eighteen (18) inches by Twenty-Four (24) inches) advertising such Lot for sale or rent.

Section 9. No trailers, non-operable vehicles, boats, motor homes or other recreational vehicles are to be parked in the driveway or front yard of a Lot or in the street for more than seventy-two consecutive hours pursuant to Concord Municipal Code Sections 10813, 3217 and California Vehicle Code Sections 22651(k) and 22702. Nor shall vehicles being repaired be left in the driveway of a Lot or in the street for over twenty-four hours. The Board of Directors may adopt reasonable rules imposing penalties and/or towing of violating vehicles after affording a resident notice and opportunity to be heard by the Board of Directors.

ISSUE #1

Section 10. No radio or television receiving or transmitting antennae or external apparatus shall be installed on any Lot. Normal radio and television installations wholly within a building are excepted.

Section 11. Easements for installation and maintenance of the utilities, sewer pipelines and facilities and drainage facilities over each of said Lots, and all pipelines and other facilities located and to be located in said easements are reserved as shown on the recorded subdivision maps. Within these easements no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. In addition, all sewer pipelines and other sewer facilities located and to be located within public roads, streets and highways abutting each of said Lots are reserved.

Section 12. Breach of any of the covenants in this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to said Lots or property, or any part thereof, but such provisions, restrictions or covenants shall be binding and effective against any Owner of said property whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

Section 13. Certain of the Lots located within the Development have been and will be conveyed with easements over adjacent property or subject to easements for benefit of adjacent property or both, and the right to create, grant and reserve such easements is hereby reserved. Said easements, the uses and purposes of which are set out below, shall be granted or reserved by reference to this Section 13 and shall be designated by applicable Lot number within the Development. The following rules describe the terms, conditions and uses of such easements, both by the dominant tenement holder and the Owner of the fee underlying the easement:

- (a) Allowable uses are restricted to landscaping (flowers, plants, lawn, sprinklers, hose bibs and so forth), swimming pool decking and use as a general recreation and garden area or any other use at ground level that will allow the Owner of the land (servient tenement) access to any underground construction and to the walls and roof of his or her home for maintenance and repair and further does

Sec. 10. (p. 14): 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 radio or television receiving or transmitting antennae or external apparatus shall be installed on any Lot. Normal radio and television installations wholly within a building are excepted.

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).