

ISSUE #1

- (iii) Fire Hazard Reduction Regions.
- (iv) Other similar open space uses.

Article IX, Section 3 of the CC&Rs, Outside Installations:

No radio or television signals nor any other form of electromagnetic radiation shall be permitted to originate from any Lot, which may unreasonably interfere with the reception of television or radio received upon any other Lot. No outside radio pole, antenna or clothesline shall be constructed, erected or maintained on any Lot except with the prior written approval of the Architectural Review Committee. The installation of all outside television antennae shall be subject to the prior approval of the Architectural Review Committee as to location, shape, height, and materials. No basketball standards or fixed sports apparatus shall be erected on or attached to the front of any dwelling Unit or garage without the prior approval of the Architectural Review Committee.

Article IX, Section 4 of the CC&Rs, Residential Structures and Auxiliary Buildings and Facilities:

Residential buildings, as well as auxiliary structures and facilities, including residential structures, garages, swimming pools, tennis courts, equestrian stables, and tack rooms, may be constructed upon certain Lots within the Properties. All construction of any kind, whatsoever, shall be controlled and regulated pursuant to the covenants, conditions and restrictions set forth in Article VIII hereof, and all such constructions shall have the prior written approval of the Architectural Review Committee as provided for herein. See Exhibit “C” for Auxiliary Structure specifications. *(See also Accessory Dwelling Unit and Junior Accessory Dwelling Unit Guidelines Adopted November 17, 2020 for specific Guidelines regarding dwelling unit structures.)*

c. EASEMENT AREAS

On many lots, easements to the Association have been designated and recorded for trails, landscaping and/or drainage purposes. All plans submitted for Committee approval must clearly show these easements. No construction is permitted in the easement areas. Setbacks are required from these easements. Surveys are required for installation of new fencing adjacent to trail easements, common areas, or neighboring property lines. Surveyor shall carry a current California State license. A copy of the survey report shall be submitted to the Association office immediately upon completing the report and prior to the start of construction. Only certified reports that are designated as such shall be accepted. Control points and markers shall be in place prior to construction and shall remain in place during the construction phase of the improvement, as installed by the surveyor, to assure no encroachment into adjacent trail easement or common area occurs.

Sec. IX (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:

unreasonably interfere with the reception of television or radio received upon any other Lot. No outside radio pole, antenna or clothesline shall be constructed, erected or maintained on any Lot except with the prior written approval of the Architectural Review 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).