months from the date a lot is purchased, then the Owner shall remove all underbrush and mow and maintain the lot on a regular basis. If any unimproved lot or building site is not so maintained, the Declarant or the Association shall be empowered to maintain the lot or building site and file a lien against the property for any and all expenditures in connection with said maintenance.

Section 17. Flagpoles, Antennas, Satellite Dishes, and Basketball Goals. No ham radio antennas, citizen band radio antennas, television antennas, or any other type of antenna shall be allowed or permitted to be erected or located or to remain on any lot or building site at any time. No flagpoles shall be permitted in the subdivision unless approved by the Architectural Control Committee. Any television satellite dishes erected and properly located on a lot or building site in the subdivision shall be the RCA type and shall not exceed eighteen (18) inches in diameter. Basketball goals, posts or backboards shall not be erected, altered or permitted on any lot or building site in the subdivision or on any street right-of-way, unless the same is approved by the Architectural Control Committee. No owner or builder shall install or cause to be installed any mailbox on any lot except as approved by the Declarant, LHF, INC. The Declarant, LHF, INC., reserves the right to require standardized mailboxes for all lots which will be supplied by LHF, INC. for the cost thereof.

ISSUE #1

MARKUP #1 ->

Section 18. Maintenance of Landscaping. Each Owner shall maintain the appearance of his or her lot or building site in high quality condition, and will provide and maintain landscaping on the lot or building site. Grass, flowers and shrubbery must be kept in an orderly fashion. No bamboo hedges, plant material or hedges (excluding trees), exceeding three (3) feet in height shall be allowed within the required twenty-five (25) foot front setback area.

Section 19. Sewage and Drainage Control. No activities shall be permitted that discharge pollutants into the surface drainage system.

Section 20. Adjoining Lots. If one or more lots, or one lot and all or a portion of an adjacent lot, or two or more fractional parts of adjoining lots, within the subdivision, are utilized for one single

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 17. (p. 11): FCC OTARD preemption conflict (47 C.F.R. § 1.4000): Outright antenna/satellite-dish prohibition, sub-1-meter diameter cap, mandatory cable-hookup removal, permit fee, or unqualified front-elevation/street-visibility ban is unenforceable as applied to covered <= 1-meter reception devices on exclusive-use property.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: Under the FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, including FCC 21-10), preemption applies to covered direct-broadcast satellite (DBS/DSS) dishes one meter (39.37 inches) or less in diameter, television broadcast antennas, and fixed wireless broadband antennas installed within areas under the owner's or occupant's exclusive use or control. Outright bans, sub-1-meter diameter caps, monetary permit fees, mandatory removal upon cable availability, and unqualified front-elevation or street-visibility prohibitions that preclude an acceptable quality signal are preempted unless justified by a documented safety objective (§ 1.4000(b)(1)) or a National Register historic site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:

Flagpoles, Antennas, Satellite Dishes, and Basketball Goals. No ham radio antennas, citizen band radio antennas, television antennas, or any other type of antenna shall be allowed or permitted to be erected or located or to remain on any lot or building site at any time. No flagpoles shall be permitted in the subdivision unless approved by the Architectural Control Committee.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that for covered reception antennas and satellite dishes one meter (39.37 inches) or less in diameter installed within areas under the owner's or occupant's exclusive use or control, this provision shall be administered in accordance with 47 C.F.R. § 1.4000 without outright prohibition, permit fee, or placement/size limits that preclude an acceptable quality signal, while preserving association authority over shared common elements, dishes exceeding one meter, documented safety objectives (§ 1.4000(b)(1)), and historic preservation sites (§ 1.4000(b)(2)).