

MARKUP #1 ->

whistles, bells or other sound devices, other than devices used exclusively for security, fire prevention or fire control purposes, shall be located or used on any property except with the prior written approval of the Architectural Committee.

9.5 Hazardous Activities. No activity shall be conducted on and no Improvement shall be constructed on any property within the Master Association Area which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property and no open fires shall be lighted or permitted on any property except in a contained barbeque unit while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent the dispersal of burning embers.

9.6 Unsightliness. All unsightly structures, facilities, equipment (including snow removal, garden and maintenance equipment), objects and conditions shall be enclosed within a structure, except when in actual use.

9.7 Garbage and Trash. No refuse, garbage, trash or scrap lumber or metal; and no grass, shrub or tree clippings; and no plant waste, compost, bulk materials or debris of any kind shall be kept, stored or allowed to accumulate on any Privately Owned Site except within an enclosed structure or container approved by the Architectural Committee or unless appropriately screened from view, in a manner acceptable to the Architectural Committee, except that any refuse container containing such materials and approved by the Architectural Committee may be placed outside at such times as may be reasonably necessary to permit garbage or trash pickup.

9.8 Temporary Structures. No tent, shack, temporary structure or temporary building shall be placed upon any property within the Master Association Area except with the prior written consent of the Architectural Committee obtained in each instance.

ISSUE #1

9.9 Antennas, Pipes and Utility Lines. Pipes for water, gas, sewer, drainage or other purposes and wires, poles, antennas, aerials and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities shall be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure. No exterior radio antenna or aerial television antenna or aerial microwave antenna, aerial or dish, or other antenna, aerial or similar facility of any type shall be erected or maintained in the Master Association Area (specifically including any privately Owned Site) without the prior written consent of the Architectural Committee. The Architectural Committee shall have the right to establish, from time to time, rules and regulations concerning antennas, aerials and similar devices or facilities of any type, specifically including the right to require that all antennas, aerials or devices, or that antennas, aerials or devices of a particular type, may not be located outside the Improvement located on a Privately Owned Site in order that the same shall not be visible from any part of another Privately Owned Site or from any part of, the Master Association Area. With the approval of the Architectural Committee, a master antenna or cable television antenna or antennas may, but need not, be provided for use of all Owners or a group of Owners, and

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 9.9 (p. 53): 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, Pipes and Utility Lines. Pipes for water, gas, sewer, drainage or other purposes and wires, poles, antennas, aerials and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities shall be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure.

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).