

Re-Typed Copy of Original Documents - "Validated by the HPOA Board dated: 25 July 2009."

such materials. The structure(s) location on the lot shall be accurately staked on the lot prior to submittal of the formal application.

10. ARCHITECTURAL DESIGN AND BUILDING REQUIREMENTS:

a) ~~No building, structures, walls, gates, hedges, fences, mailboxes, driveways, windbreaks, swimming pools, flagpoles, exterior lighting, antennas or other improvements of any kind shall be commenced, erected, converted, placed, added to, maintained or altered on any lot until complete construction plans and specifications, to include design, height, material and color samples to be used and a site/plot plan showing the exact location of the structure(s) as set forth above, have been approved in writing, by the ACC as to materials, harmony of external design with existing structure(s) and adjoining lots, location with respect to other structures planned, and as to topography and finished grade elevation. This requirement applies both to new construction and to subsequent changes, additions, repainting and major repairs or renovations. The ACC may require site changes if in its opinion the proposed site location would unduly interfere with existing trees, with drainage of the Property, or with the use and enjoyment of adjoining lots.~~

b) HEIGHT AND SIZE: 1) The maximum height allowed for any building shall be two and one-half (2-1/2) stories and shall not exceed 28 feet in height from the mean undisturbed topography of the building site, and in any event shall not exceed the height restrictions of the El Paso County Land Use Code for this zoning. For purposes of these covenants, houses with basement windows above or partially above ground level or houses with garden level or basement entrances on one side may, at the discretion of the ACC, be considered as single or multi-story structures, depending on appearance, size, location and amount of total finished floor area. 2) The enclosed total area of any dwelling structure, exclusive of garages, decks, patios or porches, shall not be less than three thousand (3000) square feet. The enclosed ground level area (footprint) of the main dwelling structure, exclusive of garages, decks, patios or porches, shall not be less than twelve hundred (1200) square feet for a multi-story story dwelling and eighteen hundred (1800) square feet for a single-story dwelling. The ACC may grant requests for minor variances to size or height criteria when other factors which enhance the quality of the structure conclusively justify such variance.

c) GARAGES: Garages are required for all dwellings and shall be of sufficient size to accommodate two (2) full-size automobiles. Oversized two or three car garages are recommended as economical and practical storage space.

d) SETBACKS: Buildings shall be located a minimum of forty (40) feet from the front and rear lot and a minimum of fifteen (15) feet from the side lot lines. For purposes of these covenants, chimneys, eaves, overhangs, steps, porches, and decks shall be considered as part of the structure. Fences must be located a minimum of five (5) feet from the lot line.

e) REFUSE AND RUBBISH: Rubbish, garbage, trash, refuse or other waste shall be kept and disposed of in a sanitary manner. All garbage or trash containers shall be kept at all times in a closed garage or placed in a walled in area designed to blend with the house so that they shall not be visible from other lots or from public roads. No trash, litter, equipment, boxes, or other such items shall be permitted to remain exposed on any area of a lot that is visible from any other lot or from any public road. Builders and Owners shall be responsible for timely and complete removal of all debris related to construction. On-site burying of trash or debris is prohibited. During construction, all building sites shall be maintained in a clean, safe and orderly condition. Builders not in compliance shall be subject to removal from the Approved Builder list maintained by the ACC.

f) COLOR: Structural color schemes shall be subdued, unobtrusive natural or earth color. Color samples must be submitted with the application.

g) FACING/SIDING/FRAMING: Exterior surfaces, including concrete foundations and retaining walls, shall be covered by one or a combination of two (2) or more materials from the following: Stucco,

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 10 (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:

swimming pools, flagpoles, exterior lighting, antennas or other improvements of any kind shall be commenced, erected, converted, placed, added to, maintained or altered on any lot until complete construction plans and specifications, to include design, height, material and color samples to be used

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).