

BOOK 1058 PAGE 520 1133-504

MARKUP #1 ->

ISSUE #1

development and, except for such Residential Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant or its successors or assigns, for use in connection with a common facility for a church, school, swimming pool(s), park or other non profit use.

2. No residence, building, landscaping or plantscaping, mailbox, fence, wall, driveway, patio, patio enclosure, swimming pool, tennis court, basketball backboards, dog house, dog run, pool house, antenna, satellite receiving station, flag pole, tool shed, windmill, or other external improvement, above or below the ground, (herein referred to as any "Improvements") shall be constructed, erected, placed or permitted to remain on any Residential Lot, or Shadow Ridge Golf Course nor shall any grading, excavation or landscaping for any Improvement be commenced, except for Improvements which have been approved by the Design Review Board (DRB) in accordance with the purpose, powers and stated procedure of the DRB set forth hereafter under Article IV. In addition to the procedures and rules of the DRB, any lot owner having proposed improvements shall be subject to the following:

- a. Owner desiring to construct or erect any Improvement shall deliver two (2) complete sets each of construction plans, landscaping plans and plot plans, hereinafter collectively referred to as the "plans", to the DRB. Such plans shall include a description of type, quality, color and use of materials proposed for the exterior of such Improvement and to be utilized in landscaping/plantscaping. Owner shall submit such plans to the DRB as more specifically described required under Article IV; and, upon submission shall notify the DRB of the Owner's mailing address. Of the two sets of plans submitted, one shall be retained by the DRB, and one shall be returned to the Owner upon approval of the plans by the DRB, with DRB's written notation or stamp specifying approval.
- b. The DRB shall review such plans, in relation to the type and extent of improvements constructed, or approved for construction on neighboring Lots and in the surrounding area, and considering any general development scheme or plans formulated and communicated to the DRB from time to time by Declarant. In this regard, Declarant intends that the Ridges shall be a developed residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by the DRB to promote development of the residential Lots and to protect the value, character and residential quality of all Lots. If DRB determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential

MARKUP #1 · CONFLICTS WITH FED LAW BOARD & COUNSEL REVIEW

Sec. I (p. 13): 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:
house, antenna, satellite receiving station, flag pole, tool shed, windmill, or other external improvement, above or below the ground, (herein referred to as any "Improvements") shall be constructed,

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).