

ISSUE #1

plan , floor plan, elevation, landscaping plan, and abbreviated specifications, and such plans, etc. have been reviewed and approved by the Architectural Control Committee, as hereinafter provided. The Architectural Control Committee shall review the proposed building or structure (including plans and specifications for same) as to the harmony of the external design and location of the building or structure compared to existing buildings and structures, the location of the building or structure with respect to topography, vegetation, and the finished grade of elevation of the lot, and any other relevant considerations which are based upon acceptable standards of planning, zoning, and construction, including considerations which are exclusively on aesthetic factors. The term “structure” as used herein shall include, but is not limited to swimming pools, fences, walls.

Barbeque pits, television or radio antennae, clotheslines, garages, sheds, outbuildings, porches, patios, driveways, walks, lighting apparatus, window barriers, window awnings, recreational facilities such as basketball courts or goals, tennis courts, shuffleboard courts, and lawn decorative objects such as statues, tables, etc., basements, tents, shacks, barns, sheds, or other temporary storage or residence facilities. All garages built shall be and remain garages and shall not be converted to any other use at any time other than the storage of vehicles. The driveway to said garage is to be for the exclusive use of said garage owner. Developer hereby creates easements for ingress and egress over those parts of the Common Area used as driveways, with each lot owner having an exclusive easement over the driveway serving his lot, which easement shall run with the land.

Section 2.3 No recreational vehicle, boat, boat and trailer, or trailer alone shall be parked (for any period of time in excess of ten consecutive hours) or stored or otherwise permitted to remain on any lot except in an approved boathouse, garage, or carport attached to the residence. No automobile, truck or other

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 2.2 (p. 12): 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:

Barbeque pits, television or radio antennae, clotheslines, garages, sheds, outbuildings, porches, patios, driveways, walks, lighting apparatus, window barriers, window awnings, recreational facilities such as basketball courts or goals, tennis courts, shuffleboard courts, and lawn decorative objects such as statues, tables, etc.

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).