

herein, the Board of Directors may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

Section 10. Setback Lines. There shall be a minimum thirty-five (35) foot front setback requirement applicable to all dwellings within the Community. Further determinations of the required distances between property lines and improvements upon a Lot shall be determined by the ARC as part of the exercise of its authority to approve the location of improvements. Such setbacks may be more restrictive than the setback lines depicted on the final recorded plat for a Lot.

Section 11. Utilities and Services. All utilities and services shall be placed underground from the property line or easement to the structure or other improvement. No utility or other service may be used, connected or operated except through easements and rights reserved unto the Declarant.

ISSUE #1

Section 12. Antennae. No television antenna, radio receiver or transmitter, or antennae or similar device for receipt or transmission of infrared, microwave, television, or radio signals of any kind may be erected upon the exterior portion of any structure or Lot if cable, satellite dish or other transmission conduit running from an operating master antenna system for such reception is available. The cost of such service shall be borne directly by each ~~subscribing customer or by the Association if the Association approves handling the expense~~ thereof as a service or function to its members. If cable television, satellite services or a master antenna system is unavailable and good television reception is not otherwise available, an Owner may make written application to the ARC for permission to install a television antenna or other device subject to the reasonable aesthetic requirements that may be imposed, including but not limited to, the screening of such device from public and private view.

Section 13. Lot Grade. The natural grade of the Lot is not to be raised or altered in any way to adversely affect an adjacent property owner or owners. Each Owner is responsible to the other Owners, the Declarant and the Association for taking reasonable precautions to prevent the accumulation of sediment, erosion, or any other adverse effect resulting from construction. All site work and grading shall be subject to the approval of the ARC.

Section 14. Temporary Structures. The only type of temporary structure which shall be allowed on any portion of the Community is that used by Declarant, contractors, or builders during construction of improvements or shelters maintained by the Declarant or the Association. Under no circumstances may any kind of recreational vehicle, camper, or temporary shelter be used as a temporary or permanent residence. Temporary construction shelters must be removed from the Community within eighteen (18) months after the start of construction on any Lot unless approval to retain them or remove them is given by the ARC.

Section 15. Clotheslines. No clotheslines shall be visible from any road or from any adjoining property.

Section 16. Removal of Trees. No trees measuring ten (10) inches or more in diameter at a point one (1) foot above ground level nor any flowering tree may be cut or removed, nor any major clearing of small trees be performed upon any Lot without the approval of the ARC, unless located within ten (10) feet of a proposed or existing dwelling unit or within ten (10) feet of a proposed or existing driveway, walkway, tennis court, swimming pool, or similar improvement. Excepted here from shall be damaged or diseased trees as determined by the ARC and trees which must be removed because of an emergency.

Section 17. Fences. No fence of any kind shall be installed in the front yard of a home or maintained on any Lot without the written approval of the ARC. Any portion of a backyard fence visible from the street must be aesthetically pleasing.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 12. (p. 14): 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:

Antennae. No television antenna, radio receiver or transmitter, or antennae or similar device for receipt or transmission of infrared, microwave, television, or radio signals of any kind may be erected upon the exterior portion of any structure or Lot if cable, satellite dish or other transmission conduit running from an operating master antenna system for such reception is available.

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).