



MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 13. (p. 25): 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 radio, television or similar tower shall be erected on any Lot or attached to the exterior of any dwelling.

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).

Section 8. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept in any dwelling or on any Lot, except that dogs, cats or other domesticated household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided that not more than two pets in the aggregate may be kept in any such dwelling or Lot.

Section 9. Garbage and Rubbish. Garbage and rubbish shall not be dumped or allowed to remain on any Lot. If contained in a closed metal receptacle it may be placed outside the dwelling for collection in accordance with the regulations of the collecting agency and the Association.

Section 10. Fences. An ornamental corner fence of not more than two sides, no one side of which is longer than ten feet or higher than three feet is permitted on each corner Lot. With the exception of said ornamental corner fences, fabricated fences are prohibited on any part of the Lot, except for those fences, if any, to be built by or on behalf of the Developer or by the Owner after the approval required by Article VII. The position of the original installation of said fences shall not be changed, and the Owner of the Lot shall maintain said fences intact and shall not remove any part thereof or add to the same. If all or any part of said fences are damaged or destroyed, the Owner of the Lot shall forthwith replace or repair the same in the same style and manner as originally erected by the Developer.

Section 11. Laundry Lines. Laundry poles and lines outside of houses are prohibited except that one portable laundry dryer, not more than seven feet high, may be used in the rear yard of each dwelling on days other than Sundays and legal holidays; and such dryer shall be removed from the outside when not in actual use.

Section 12. Lawn Mowing. Rear yard lawns in the area between the rear-most wall of the dwelling as originally erected by the Developer and any fence that is erected on the Lot and front yard lawns which are enclosed or partially enclosed shall be mowed and weeds removed at least once a week between April 15 and November 15 of each year by the Owner. The Association shall mow rear yard lawns not within such an area and front yard lawns not so enclosed or obstructed.

Section 13. Antennae. No radio, television or similar tower shall be erected on any Lot or attached to the exterior of any dwelling.

Section 14. Planting. The Association shall maintain at its own expense planting, if any, used for screening located outside of the Lot lines of any Lot.

Section 15. Easements.

(a) Perpetual easements for the installation, construction, reconstruction, maintenance, repair, operation and inspection of sewer, water, gas and drainage facilities, for the benefit of the adjoining land owners and/or the Developer, authority, commission, municipality, utility or other agency ultimately operating such facilities, are reserved as shown on the subdivision plats described in Exhibit "A" attached hereto. Except as determined by the Developer, no building, fences or structures shall be erected nor any paving laid within the easement areas occupied by such facilities. Except as determined by the Developer, no trees or shrubs shall be planted in the easement areas and no excavation or filling shall be done in the easement areas, without the written consent of the Developer, authority, commission, municipality, utility or other agency supplying sewer, water, gas and/or drainage facilities for said subdivision.

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