



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF BROOKHAVEN SUBDIVISION

- (j) Sidewalk. Prior to occupancy, the owner of each lot of the subdivision shall construct a concrete sidewalk parallel to the owner's street frontage(s) on the owner's lot which shall extend from one side of the property to the other side of the property. The Committee shall approve the location of the sidewalk.
- (k) Above-Ground Swimming Pools Prohibited. No aboveground swimming pools shall be permitted to be constructed on any lot. The Committee shall determine whether or not a pool shall be defined as aboveground.
- (l) Fencing. The Committee shall establish rules and regulations regarding the application for fence approval and the placement and installation of fences. Said rules and regulations may change from time to time, as necessary. Chain link fencing is prohibited. However, fences constructed of white PVC, wood (shadow box), wrought iron, or similar decorative metal shall be permitted, subject to prior approval of their location by the Committee. Other fencing types and materials not listed herein may be considered for approval by the Committee on a case-by case basis. No fences taller than 4 feet will be approved on lake lots. Maintenance of fencing within Common Areas will be the responsibility of the Association. No fencing will be allowed to be placed by any Lot Owner within any Landscape Easement at any Subdivision entry or along Paddock Road or Olive Branch Road. Fencing to be installed in yards abutting Paddock Road or Olive Branch Road shall be uniform in appearance and conform to the fence design and placement requirements established by the Committee, which shall be a 6' high wood shadow box fence type.
- (m) Outbuildings. No freestanding detached outbuildings will be permitted, including but not limited to, storage sheds, mini-barns or garages.
- (n) Satellite Dishes. No television satellite antenna dishes any larger than 24" in diameter shall be permitted on any lot. All ground-mounted dishes must be placed behind the front building line and must be screened from adjoining neighbor's primary view to the extent that such screening will not interfere with the satellite signal to the dish. No roof or building mounted satellite dish may be mounted on a front-facing wall or roof.
- (o) In General. No noxious or offensive activities shall be permitted on any lot in the Development, nor shall anything be done on any of said lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another lot in the Development.
- (p) Signs. With the exception of Permitted Signs (hereinafter described), all signs including but not limited to those advertising a garage sale or a Lot "For Lease", must be

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. (n) (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:

Satellite Dishes. No television satellite antenna dishes any larger than 24" in diameter shall be permitted on any lot. All ground-mounted dishes must be placed behind the front building line and must be screened from adjoining neighbor's primary view to the extent that such screening will not interfere with the satellite signal to the dish.

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).