

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that no more than two dogs, two cats, or two of any other household pet may be kept provided that they are not kept, bred or maintained for any commercial purpose. In the event a household pet is bred (it must be for non-commercial purposes) any animals of the litter shall be allowed to remain at the home for no more than six months.

SECTION XIV -- BILLBOARDS PROHIBITED

No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any of the lots hereby restricted without the consent in writing of **POFHA**; provided, however, that permission is hereby granted for the erection and maintenance of not more than two advertising boards on each lot or tract as sold and conveyed, which advertising boards shall not be more than six square feet in size and may be used for the sole and exclusive purpose of advertising for sale or lease the lot or tract upon which they are erected; and provided further, that nothing in this section shall be construed to prohibit the erection of subdivision entrance structures by **POFHA** at such place or places as it or they may determine, which structures may or may not display the name of said subdivision.

SECTION XV -- VEHICLE REPAIR AND STORAGE OF AUTOMOBILES, BOATS, TRAILERS, ETC.

No vehicle repair or rebuilding or any other form of vehicle manufacture, whether for hire or otherwise shall occur on any of the lots except that vehicle repairs on a non-commercial basis and not for hire may be conducted in any enclosed garage. No automobile, truck, motorcycle, motorbike, motor scooter, motor home, boat, airplane, house trailer, boat trailer, camping trailer, camping vehicle, or vehicle of any other type or description may be stored upon any of the lots, nor the pool parking lots, hereby restricted except that such storage (other than storage for hire) shall be permitted within the confines of any building built on any of the lots hereby restricted and permitted under other provisions of these restrictions. Nothing in this section shall be construed to prohibit the regular parking of automobiles (this is not to include a pick-up truck with camper) in running condition and in a reasonable state of repair on any driveway on any of the lots hereby restricted.

ISSUE #1

SECTION XVI – SATELLITES DISHES AND ANTENNAS

No television, radio or other antenna of any kind which shall include satellite dishes, nor devices to collect solar energy may be erected or maintained on the outside of any residence or on the surface of any of the lots hereby restricted without the consent in writing of the Architectural Control Committee or the POFHA.

SECTION XVII -- EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of Post Oak Farm. **POFHA** recites that it will, by separate instrument, reserve portions of one or more of the lots herein described as walkway(s) to Tract A as shown on the plat of Post Oak Farm. This power shall be exercised only during the time of ownership of any such lot or lots by **POFHA**.

SECTION XVIII - DURATION OF RESTRICTIONS

Each of the restrictions herein set forth shall be binding on POFHA until December 31, 2014, and shall automatically be continued thereafter for successive periods of twenty-five (25) years each, provided, however, that the owners of the fee simple title to more than fifty per cent of the front feet of all of the lots hereby specifically restricted, and set forth in this instrument, may release all of the land which is hereby restricted from any one or more of the restrictions herein set forth, on December 31, 2014, or at the end of any successive five-year period thereafter, by executing and acknowledging an appropriate agreement or agreements in writing for such purpose and filing of the same for record in the office of the Register of Deeds of Johnson County, Kansas, prior to December 21, 2014, or at least ten days prior to the expiration of any successive five-year period after December 31,2014.

SECTION XIX -- RIGHT TO ENFORCE

The restrictions herein set forth shall run with the land and bind the present owner, its successors and assigns, and all parties claiming by, through or under it shall be taken to hold, agree and covenant with the owner of the lots hereby restricted, and with its successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said lots and the construction of improvements thereon, but no restrictions herein set forth shall be personally binding on any corporation, person or persons except in respect of breaches committed, or as hereinafter set forth. The owner or owners of any of the lots hereby restricted, and the Association Board, shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the restrictions set forth above in addition to ordinary legal actions for damages. Failure of any owner or owners of any lot or lots hereby restricted to enforce any of the restrictions herein set forth, and/or the failure to enforce any violation shall, in no event, be deemed to be a waiver of the right to do so thereafter. Further, in the event the Association Board retains legal counsel to enforce any rights contained in this

Sec. XVI (p. 17): 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:

- SATELLITES DISHES AND ANTENNAS No television, radio or other antenna of any kind which shall include satellite dishes, nor devices to collect solar energy may be erected or maintained on the outside of any residence or on the surface of any of the lots hereby restricted without the consent in writing of the Architectural Control Committee or the POFHA.

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).