

MARKUP #1 ->

be maintained in good repair and if visible from the street shall be constructed of wood or iron; and

11) No vehicle shall be parked on the unpaved portion of a Building Site and no trailer, motor home, recreational vehicle, or boat shall be parked on a Building Site for more than seventy-two (72) hours. No large commercial vehicle, or inoperable, wrecked or dismantled vehicle shall be parked on the street or visible on a Building Site.

- I. No animals or poultry of any kind, other than house pets belonging to the household of the premises and not maintained for any commercial purpose, shall be raised, kept, bred or maintained on any part of the real property subject to this Declaration.
- J. No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the Building Sites herein restricted without the consent in writing of the Board of Directors of the Association, provided, however, that permission is hereby granted for the erection and maintenance of political signs (during a reasonable time period before and after the election) and not more than one signboard on each Building Site as sold and conveyed, which signboard shall not be more than five (5) square feet in size and may be used for the sole and exclusive purpose of advertising for sale or lease, the Building Site upon which it is erected and Improvements thereon, if any.
- K. No Fence, masonry wall, hedge or mass planting shall be permitted to extend beyond the minimum front and side street building set-back line established herein nor shall any antenna project higher than the highest peak of a detached single-family dwelling except for a television or small twelve inch (12") satellite television receiving dish upon approval in writing by the Board of Directors of the Association.
- L. Oil drilling, oil development operations, refining, mining operations of any kind or quarrying shall not be permitted upon or in any or the Building Sites subject to this Declaration, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any of the Building Sites covered by this Declaration. Fuel oil storage tanks as a part of the heating equipment of a detached single-family dwelling shall be permitted only if located underground.
- M. Easements for utility installations and maintenance affecting all lots subject to this Declaration are reserved as shown on the recorded plat of Rockwood First, Second, Third, Fourth, Fifth, and Sixth Additions, Additions to Wichita, Kansas, Sedgwick County, Kansas, hereinbefore described and referred to.
- N. The conditions, covenants, restrictions, and reservations set forth herein shall continue for a period of thirty (30) years from April 30, 2012, and automatically shall be continued thereafter for successive period of twenty-five (25) years each; provided, however, that the property owners, as hereinafter defined, owning sixty percent (60%) of the front feet of the Building Sites herein subjected to this Declaration which are hereby restricted,

ISSUE #1

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. D (p. 9): 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:

antenna project higher than the highest peak of a detached single-family dwelling except for a television or small twelve inch (12") satellite television receiving dish upon approval in writing by the Board of Directors of the Association.

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).