

The Cedars Homes Association
Declaration of Restrictions

MARKUP #1 ->

ARTICLE III

Section 1.

USE OF LOTS

Only one single-family dwelling may be constructed upon any lot conveyed for residential purposes.

ISSUE #1: Vehicles, trucks, trailers, buses, campers, or recreational vehicles, tractors, or mowers shall be parked on the driveway, front, side or back yards, for a period of more than two (2) weeks at a time; or if the same becomes an annoyance or nuisance to the neighborhood. No radio, television, satellite dish, or any other type of transmitting or receiving antennae may be erected or maintained outside of or on top of any residence on any of the lots without the prior written consent of Owner. No windmills or wind driven electrical generating systems of any type may be erected or maintained outside of or on top of any residence on any of the lots without prior written consent of the Owner. No solar or sun energy systems of any type may be erected or maintained outside of or on top of any residence on any of the lots without prior written consent of the Owner.

Section 2.

SETBACK LINES

No part of any residence, except as hereinafter provided, may be erected or maintained on any of the lots nearer to the front street or the side street than is the front building line or the side building line shown on the final plat of any phase of The Cedars in which such residence is located, as such final plat is recorded in the office of the Register of Deeds of Johnson County, Kansas. The final plat of The Cedars is recorded in said office at book 59 of Plats, at page 16. Provided, however, that Cedar Development Company, a Kansas Corporation shall have and does hereby reserve the right with the consent in writing of the record owner of the fee simple title to any such lot, to change any building line that is shown on said plat on any such lot of lots, so long as the change conforms to such front, rear and side setback lines as are contained in the Municipal Building Code for the City of Lenexa, Kansas, as the same is now enforced or may hereafter be amended.

Section 3.

DWELLING SITE

Any residence one story in height erected on any of said lots zoned R-I, shall contain a minimum of fourteen hundred (1400) square feet of enclosed floor area. The word "enclosed floor area" as used herein shall mean and include in all cases area on the first and second floor of the residence enclosed and finished for all-year occupancy computed on outside measurement of the residence, and shall not mean or include any area in basement, garage, porch or attic finished or unfinished. No residence erected on any of said lots shall be more than two stories in height, unless consented to in writing by the Owner. Owner shall have and hereby reserves the right to reduce the floor area requirement set forth above, provided the total reduction for any one residence may not exceed twenty (20) percent of such minimum floor area requirement for such residence.

Section 4.

APPROVAL OF PLANS

No residence or outbuilding may be erected on the above described property unless and until the plans, elevations, location and grade thereof have been submitted to the Owner and by it, approved in writing; nor shall any change, alteration, or addition be made in the exterior of any such residence or outbuilding after the original construction thereof (including, but not limited to room additions, decks and patios or coverings therefor, and other exterior alterations), unless approval thereof has been given in writing, by the Owner. Architectural control in the properties shall be solely the function of the Owner. Owner may, at its option, delegate all or any part of the function of architectural control to the Board of Directors of the Association. If such delegation is made, architectural control shall be the function and obligation of the Board of Directors, and it may not be delegated to a separate architectural control committee or similar group. Any such delegation by the Owner of all or part of its architectural control function to the Board of Directors of the Association shall not be effective unless done in writing and signed by a person authorized to act on behalf of the Owner.

Section 5.

WALLS AND ROOFS

Exterior walls of all buildings, structures, and appurtenances thereto shall be made of brick, stone, stucco, wood shingles, wood siding, wood paneling, glass blocks, or any combination thereof. Windows, doors and louvres shall be of wood or metal and glass. Roofs shall be covered with wood shingles, wood shakes, composition shingles, asphalt shingles, built-up asphalt, slate or tile. Exteriors, except roofs and shake sidewalls shall be covered with not less than two coats of good paint or stain. (No building shall be permitted to stand with its exterior in a unfinished condition for longer than five (5) months after commencement of construction.) In the event of fire, windstorm, or other damages, no building shall be permitted to remain in damaged condition longer than three (3) months.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 1. (p. 4): 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:

period of more than two (2) weeks at a time; or if the same becomes an annoyance or nuisance to the neighborhood. No radio, television, satellite dish, or any other type of transmitting or receiving antennae may be erected or maintained outside of or on top of any residence on any of the lots without the prior written consent of Owner.

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).