

MARKUP #1 ->

13. No noxious, illegal or offensive activity shall be carried on upon any lot or lots, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

14. Use of “all terrain” motorized recreational vehicles (whether of two-, three-, four-or more wheel design) is forbidden; use of trail bikes, dirt bikes, motorcycles and other motorized off-road vehicles is forbidden; use of snow mobiles or other motorized snow or ice recreational vehicles is prohibited.

15. No motorcycle, truck, trailer or boat shall be stored on any lot unless it is garaged.

16. Landscaping and grass on lawns shall be kept in neat and natural appearance, and lawns maintained in a neat manner. Lawns shall be fertilized as needed and treated for pests and weeds at least twice annually. Shrubbery shall be trimmed no less often than twice annually.

17. If any owner of a lot fails or refuses to cut grass, weeds or brush from the cleared portion of the property, Grantor may do so and assess the costs thereof as a lien against the property. Cleared portion of the property shall be defined as the area within 50 feet on either side and rear of single family dwelling and the area from front of single family dwelling to the front street.

18. No animals or poultry of any kind, other than house pets belonging to the household of the premises shall be kept or maintained on any part of the real property subject to these covenants. No bulls, cows, sheep, goats, split hoof animals, swine or dog kennels of any kind shall be permitted. Dogs shall not be allowed to disturb neighbors. Dogs shall not be allowed to run free but must be on a leash or within a fenced backyard.

19. No barbwire or chain link fences shall be permitted in front, side or in the rear of the single-family dwelling. ~~Split rail and wrought iron fencing will be allowed in front yard, side yard and in the rear of a single- family dwelling.~~ Except with the approval of Grantor in writing, no fence, masonry wall, hedge, mass planting, or structure which materially obscures the view of the detached single-family dwelling from the street shall be permitted nearer to the front building set back line than the front face of the dwelling; nor shall any television or radio transmission or receiving antennae project higher than the highest peak of the detached single-family dwelling.

20. Oil drilling, oil development operations, refining, mining operation of any kind or quarrying shall not be permitted upon or in any of the building sites subject to these covenants, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any of the building sites, covered by these covenants.

21. Trash, lawn cuttings, branches and other refuse shall not be burned or buried on any lot. Refuse shall be removed no less often than once per week. Refuse shall be stored in locked outbuildings or inside the garage between collections.

22. Outdoor clothes lines are prohibited.

23. Easements for installation and maintenance of utilities and drainage facilities are reserved on the front, side or rear of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels on the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the tract, except for those facilities for which a public authority or a utility company is responsible.

24. **Onsite Wastewater Disposal System.** The Grantor has agreed with the Metropolitan Area Building and Construction Department (“MABCD” or “Department”) that the Grantor will operate an alternative onsite wastewater disposal system in connection with lots sold in the Westwind Estates Addition (the “Restrictive Covenant. If upon the occurrence of any single condition or combination of the following conditions:

- (1) failure to have a continuing maintenance contract for the alternative onsite wastewater disposal system (a copy of that agreement must be provided to the MABCD), or

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 3 (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:

be permitted nearer to the front building set back line than the front face of the dwelling; nor shall any television or radio transmission or receiving antennae project higher than the highest peak of the detached single-family dwelling. 20. Oil drilling, oil development operations, refining, mining operation of any kind or quarrying shall not be permitted upon or in any of the building sites subject to these covenants, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any of the building sites, covered by these covenants.

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).

ISSUE #1