

ISSUE #1

MARKUP #1 ->

courts, hot tubs and spas may be permitted if design and placement thereof are approved in writing, in advance of construction, by the Association at the Association’s sole discretion.

[amended effective March 29, 2011; recorded 1/19/12 DB 09829 PG 0792]

E. No antennae, masts, poles, microwave or any other similar type receivers or transmitters (excluding a “satellite dish” that is mounted to the house) or any appurtenances shall be erected or placed on any lot unless its design and placement are approved at least one (1) day in advance in writing by the Association.

[amended effective March 29, 2011; recorded 1/19/12 DB 09829 PG 0792; amended effective March 31, 2012]

F. All exterior play equipment located on any lot, including, without limitation, swing sets, jungle gyms and similar equipment, shall be subject to the prior written approval of the governing body of the Association in its sole discretion, and all lot owners and residents of the Subdivision are advised to obtain the approval of the governing body of the Association prior to the construction or placement of any such equipment on any lot.

[amended effective March 31, 2012]

G. Permanent basketball goals shall be located in the rear of any lot. Portable basketball goals shall be placed at least twenty-five (25) feet off the street, or other greater distance as required by Metro Ordinance, between the dates of September 1st through February 28th, and at all other times are prohibited. All basketball goals shall be maintained to preserve an attractive appearance and kept in an operational state.

[new effective March 29, 2011; recorded 1/19/12 DB 09829 PG 0792; amended effective March 31, 2012]

Section 6. Duty to Maintain and Rebuild.

A. Each owner of a lot shall, at its sole cost and expense, repair his residence, keeping the same in condition comparable to the condition of such residence at the time of its initial construction. Every residence shall have proper window coverings (no sheets or other material of a temporary nature) placed over windows within thirty (30) days of occupancy. Without the prior written approval of the governing body of the Association, no aluminum foil, tinted or reflector glass or other tinted or reflective material shall be installed or maintained on any window. Window shutters must be sized to match window openings.

[amended effective March 31, 2012]

B. Each owner of a lot shall keep the lot and improvements thereon neat and attractive in appearance. Should any lot owner fail to do so, then the governing body of the Association may take such action as it deems appropriate in order to make the lot neat and attractive. The owner of that lot shall, immediately upon demand, reimburse the Association or other performing party for all expenses incurred in so doing, together with allowable statutory interest. The Association shall have a lien on that lot and the improvements thereon equal in

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. VI (p. 10): 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:

No antennae, masts, poles, microwave or any other similar type receivers or transmitters (excluding a "satellite dish" that is mounted to the house) or any appurtenances shall be erected or placed on any lot unless its design and placement are approved at least one (1) day in advance in writing by 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).