

MARKUP #1 ->

- (h) No Lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.
- (i) No sound trees measuring in excess of four (4) inches in diameter two (2) feet above the ground shall be removed from any Lot or Common Areas by any member or resident without written approval of the Association acting through the AERC or duly appointed subcommittee. The AERC may from time to time recommend to the Board of Directors the adoption and promulgation of such additional rules and regulations regarding the preservation of trees and other natural resources and wildlife as it may consider appropriate.
- (j) No structure of a temporary character, and no trailer, tent, shack, pen, kennel, run, stable, outdoor clothes dryer, playhouse, shed or other buildings shall be erected, used or maintained on any Lot at any time.
- (k) Except for signs permitted by law and except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas" and such promotional sign or signs as may be maintained by the Association, no signs or advertising devices of any character shall be erected, posted or displayed upon, in or about any Lot including the window of any dwelling thereof. The prohibition aforesaid shall be deemed to include real estate or "for sale" or "for rent" signs, provided, however, that the Board of Directors shall cause to be maintained a bulletin board in a reasonably public area whereon can be affixed cards or hand bills advertising homes for sale or rent. The Board of Directors may, by rule or regulation, provide limited exception for real estate signs.
- (l) No structure, planting or other material shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, obstruct or retard direction or flow of any drainage channels.

ISSUE #1

- (m) Except as permitted by law, no outside television or radio aerial or antenna, or other aerial or antenna or similar device, for reception or transmission, shall be maintained upon the exterior of any dwelling.
- (n) No member shall engage or direct any employee or contractor of the Association on any private business of the member during the hours such employee or contractor is employed by the Association, nor shall any member direct, supervise or in any manner attempt to assert control over any employee or contractor of the Association.
- Section 9. Residential Use - Leasing.
- (a) All dwellings shall be used for private residential purposes exclusively, except that a no-impact home-based business or a professional office may be maintained in a dwelling, provided that such maintenance and use:
- (1) is limited to the person actually residing in the dwelling,
- (2) is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation,
- (3) is consistent with the residential character of a dwelling unit,

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 8. (p. 13): 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:

(m) Except as permitted by law, no outside television or radio aerial or antenna, or other aerial or antenna or similar device, for reception or transmission, shall be maintained upon the exterior of any dwelling.

(n) No member shall engage or direct any employee or contractor of the Association on any private business of the member during the hours such employee or contractor is employed by the Association, nor shall any member direct, supervise or in any manner attempt to assert control over any employee or contractor 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).