

ISSUE #1

trailer or vehicle (except passenger cars and passenger vans) may be parked or stored on any Lot unless stored fully enclosed with an attached garage otherwise constructed in accordance with this Declaration, except that (i) commercial trucks and vehicles may be parked upon any Lot while making deliveries or pickups in the normal course of business, (ii) one construction trailer may be kept and maintained within the subdivision by each builder engaged in the construction of Dwellings within the Subdivision, provided that such construction trailer shall be located upon a Lot owned by such builder, or by the Person for whom such builder is constructing such Dwelling, and shall be removed from the Subdivision at such time as such builder shall have completed the construction of Dwellings within the Subdivision and (iii) construction vehicles and trailers used on a frequent and ongoing basis by any such builder or his contractors for the construction of Dwellings in the Subdivision may be parked upon a Lot owned by the builder or by the Person for whom the builder is constructing such Dwelling.

Section 12. Antennas. No exterior radio, television or other communications antenna of any type, or any saucer, dish or similar device, may be erected, placed, maintained or permitted to remain on any Lot, except that the committee may, upon appropriate application with regard to any Lot, determine that the absence of an outside antenna will cause a substantial hardship/ and, upon such finding, may permit an outside antenna to be used in connection with such Lot under such conditions as the Committee shall deem reasonable.

Section 13. Unsightly Conditions. No Lot shall be used as a dumping ground for rubbish, trash, garbage or other waste, and such material shall not be kept or stored on any Lot except in appropriately sealed sanitary containers properly concealed from public view. Garbage containers shall not be left at the roadside of any occupied Lot for more than twenty-four (24) hours during any one week. Any debris resulting from the destruction in whole or in part of any Dwelling, structure or improvement on any Lot shall be removed from such Lot by the Owner thereof with all reasonable dispatch. Each Owner shall prevent such Owner's Lot, and any Dwelling, appurtenant structure or other Improvement thereon from becoming unsightly or unkempt, or from falling into a state of disrepair. No laundry shall be hung for drying on any Lot outside of the Dwelling on such Lot. The provisions of this Section 13 shall apply both to Builders during the period of construction of Dwellings in the Subdivision and to subsequent Owners.

Section 14. Easements and Other Conditions. Easements for the construction, installation and maintenance of public utilities, for surface and road drainage facilities, and for sanitary sewer, storm sewer and water main facilities, are reserved as shown on the recorded Plat of the Subdivision, and/or as may otherwise appear of record, and as set forth herein. In addition, easements are hereby specifically reserved to the Declarant in, through and across a strip of land four feet (4') in width along all rear and side Lot lines for the installation and maintenance of telephone, electric and cable television lines and conduits, sanitary and storm sewers, water mains, and for surface drainage purposes, and for the use of any public utility service deemed necessary by the Declarant. The use of any such easement may be assigned by the Declarant, at any time, to any Person furnishing one or more of the foregoing services and/or facilities,

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 12. (p. 16): 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:

Antennas. No exterior radio, television or other communications antenna of any type, or any saucer, dish or similar device, may be erected, placed, maintained or permitted to remain on any Lot, except that the committee may, upon appropriate application with regard to any Lot, determine that the absence of an outside antenna will cause a substantial hardship/ and, upon such finding, may permit an outside antenna to be used in connection with such Lot under such conditions as the Committee shall deem reasonable.

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).