

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

documents shall be default under the lease. Other than the foregoing, there shall be no restrictions on the use of a Living Unit by a non-Owner occupant.

7.10) Fences and Walls. No wall or fence shall be constructed on any Lot until the height, type, design, and location have been approved in writing by the Committee. Under no circumstances shall a boundary wall or fence be permitted with a height of more than six (6) feet. The height or elevation of any wall, fence or hedge shall be measured from the existing ground elevations on the property at or along the applicable point or lines. Any question as to such heights may be completely determined by the Committee. The height limitations as set forth in this paragraph shall not be applicable to tennis court enclosures, provided such enclosures have been approved by the Committee. A refusal by the Committee to allow or permit a fence or wall (including tennis court enclosures and swimming pool fences) on any particular Lot or in any particular location shall not be construed to be an abuse of discretion.

7.11) Storage Tanks. No permanent storage tanks of any kind shall be erected, placed, or permitted on any Lot.

7.12) Temporary Structures. No structure of temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used on any Lot at any time as a residence, either temporarily or permanently.

7.13) Auxiliary Structures. No detached dog kennels, runs or enclosures shall be permitted unless design and location of same shall be approved by the ACC. No detached storage building shall be permitted except those approved by the ACC as conforming in design and appearance to the dwelling, and which are located in the proximity of the dwelling or garage.

7.14) Exterior Ornaments. Exterior ornaments including but not limited to precast concrete, plastic or wood figurines, wishing wells and windmills shall be prohibited unless approved by the Committee prior to installation or construction.

ISSUE #1

7.15) Antennas. Except with the prior written approval and authorization of the Committee, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of a Lot or the improvements or structures located thereon.

ARTICLE VIII
GENERAL PROVISIONS

8.1) Association Easement. The Association shall have an easement to enter upon any Lot in order to perform any obligations or duties of the Association hereunder, or to exercise any right or remedy of the Association hereunder.

8.2) Duration of Declaration of Covenants, Restrictions and Easements. The covenants, restrictions, and easements of this Declaration shall run with and bind the land and shall inure to the benefit of and be

Sec. VII (p. 14): 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:

7.15) Antennas, Except with the prior written approval and authorization of the Committee, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of a Lot or the improvements or structures located thereon. ,

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).