

Property. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

MARKUP #1 ->

16. Cul-de-Sac. Etc. No above-ground structure, other than required street lights, may be, erected upon a cul-de-sac, divided street entry island, or median strip, without the written approval of the St. Louis County Department of Highways and Traffic.

~~See Amendment 17. Fences. No fences or screening of any kind shall be erected or maintained on any Lot between the rear of the residence constructed on such Lot and the street upon which such Lot fronts. Fences may be maintained on other portions of the Lots only with written consent of the Architectural Control Committee as to location, material and height, and the decision of such committee to approve or reject a fence shall be conclusive. Nothing herein contained shall prevent placement of fences by the Trustees on the Common Ground.~~

ISSUE #1

~~See Amendment 18. Television Antennae. No exterior television or radio antennae, towers, satellite dishes, or similar structures will be allowed on any Lot in the Property.~~

19. Swimming Pool. No above-ground swimming pool will be allowed on any Lot in the Property. In-ground swimming pools shall be permitted only with the approval of the Architectural Control Committee pursuant to Article VI hereof.

AMENDMENT, MODIFICATION AND CHANGE
OF INDENTURE OF TRUST AND RESTRICTIONS
FOR TALL OAKS AT WINDING TRAILS

"17. Fences. No fences or screening of any kind shall be erected or maintained on any Lot between the rear of the residence constructed on such Lot and the street upon which such Lot fronts. Fences may be maintained on other portions of the Lot only with the written consent of the Architectural Control Committee and the decision of such committee to approve or reject a fence shall be conclusive. Fences shall be a maximum of 4' 0" in height and constructed of wrought iron, brick, cedar, treated lumber, or a durable vinyl material. Non-stockade design styles are required and a minimum spacing of 1" between slats shall be maintained. Nothing herein contained shall prevent placement of fences by the Trustees on the Common Ground."

"20. Deck & Miscellaneous Additions. Exterior decks, gazebos, trellises, stairs and other structures may be erected on Lots subject to the approval and written consent of Architectural Control Committee. Requests for approval shall be submitted in writing. Copies of the appropriate Building Permits, Final Inspection Reports and the Certificate of Use and Occupancy are required, where applicable."

"21. Hot Tubs. Exterior hot tubs and Jacuzzis are permitted if, in the judgment of the Architectural Control Committee, they are compatible with the residential design and constructed of suitable materials. Hot tubs and Jacuzzis must be physically connected to the dwelling or an attached deck. Landscaping may be required around the structure. Requests for approval shall be submitted in writing. Copies of the appropriate Building Permits, Final Inspection Reports and the Certificate of Use and Occupancy are required where applicable."

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 16 (p. 3): 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:

See Amendment 18. Television Antennae. No exterior television or radio antennae, towers, satellite dishes, or similar structures will be allowed on any Lot in the Property.

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).