MARKUP #1 ->

ISSUE #1

6. No exterior television, radio, ham broadcasting, earth station, satellite dish or other electronic antenna or aerial or exterior solar heating or cooling device of any type shall be permitted on any Lot.

7. No tree houses, tool sheds, doll houses, windmills or similar structures shall be permitted on any Lot.

8. No repair of any boats, automobiles, motorcycles, trucks, campers (trailers, van-type, auto-drawn or mounted), snowmobiles, recreational vehicles (RV), other self-propelled vehicles or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as orderly and inconspicuous a manner as is reasonably possible.

9. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than two (2) consecutive days and no more than fourteen (14) days combined within any calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Section 9 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings on the Lots during the period of construction.

10. No incinerator, trash burner, or fuel tank shall be permitted on any Lot. No garbage or trash can or container shall be permitted outside, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards in an area no larger than eight feet (8') by ten feet (10').

11. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

12. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line of any residence unless otherwise approved by Declarant. No fencing shall be installed anywhere on Lots 1 through 10, Residences on the Green at Pacific Springs, Replat 1 or Lot 12 Residences on the Green at Pacific Springs; except that electronic underground fencing which is not visible above ground may be installed on such lots. Except as otherwise set forth above, fencing is only allowed to be installed on Lots 13 through 28, Residences on the Green at Pacific Springs, in accordance with this Section 12, as follows: (a) no fence may be installed without the prior approval of the Declarant; (b) no fence shall be permitted to extend beyond the front line of a main residential structure; (c) in all events, installed fences must comply with applicable code requirements imposed by the City of Omaha;

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 6 (p. 4): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas on exclusive-use property 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 (39.37 inches) 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. Under 47 C.F.R. § 1.4000(a)-(b), associations may only restrict installations on shared/general common elements, dishes exceeding 1 meter in diameter, or where necessary for a specific documented safety objective (§ 1.4000(b)(1)) or a National Register of Historic Places site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:
No exterior television, radio, ham broadcasting, earth station, satellite dish or other electronic antenna or acrial or exterior solar heating or cooling device of any type shall be permitted on any Lot. No tree houses, tool sheds, doll houses, windmills or similar structures shall be permitted on any Lot.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000), subject only to restrictions on shared common elements, dishes exceeding one meter in diameter, documented safety objectives (§ 1.4000(b)(1)), or historic preservation requirements (§ 1.4000(b)(2)).