

**200.13**      Zoning - The notes upon recorded subdivision plats shall control as to use of the Lot reflected thereon. MARKUP #1 ->

As to Lots designated as Residential, the notes upon the recorded subdivision plat shall control regarding the residential structure types (Single Family Detached, Single Family Attached, and Multifamily structure) which shall be permitted, provided that Single Family Detached is a permitted use on any such property regardless of designation.

On Single Family Detached Lots, no residential building shall be erected, altered, placed or permitted to remain other than one (1) detached Single Family dwelling not to exceed thirty-five (35) feet in height and private garages for the occupant’s vehicles and other outbuildings incidental to the residential use of the Lot. No Residential Lot shall be used except for residential purposes. Non-profit, civic, religious, educational, and community purposes such as, but not limited to, churches, schools, fire and police stations, community buildings, libraries, or parks shall require ACC approval.

Structures upon Lots designated as Commercial or Industrial shall be controlled entirely as to kind, shape, height, material, and other features by the ACC. The ACC may permit residential use of a Lot restricted to Commercial or Industrial with the consent of the Owner of the Lot.

**200.14**      Re-subdivision - No Lot shall be subdivided without a recommendation from the ACC to the POA Board of Directors.

ARTICLE III

EXTERIOR REMODELING, NEW HOME CONSTRUCTION AND LANDSCAPING

ISSUE #1

**SECTION 300**      No building, fence, wall, satellite dish, antenna system, or other structure shall be erected or maintained upon the property nor shall exterior additions or modification of existing structures be commenced before approval and a permit is obtained from the ACC. A satellite dish or antenna system must be unobtrusive, may not be located between the home and street, and must be within the setback lines. Prior to installation an ACC Area Representative must give approval on the location of a satellite dish or antenna system. Recreational and playground equipment are permitted with concurrence in location by the ACC.

Prior to the commencement of the erection, construction, or alteration of any structure, including the alteration of any color scheme on a building, (collectively “Structural Work”) or the removal of any tree greater than three (3) inches in caliber that is located more than twenty (20) feet from the exterior of any building (“Tree Cutting”), approval shall be requested from a representative of the ACC at least two (2) calendar days prior to the intended commencement of work. The representative of the ACC must respond within two (2) calendar days of the request.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

**Sec. 300 (p. 12): 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:**

No building, fence, wall, satellite dish, antenna system, or other structure shall be erected or maintained upon the property nor shall exterior additions or modification of existing structures be commenced before approval and a permit is obtained from the ACC.

**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).**