Section 12. Driveways. Construction of the driveway designed to serve the residential dwelling located on a Lot shall be completed prior to the occupancy of said dwelling. All vehicles, except for construction vehicles, must be parked in the driveway or in the garage, and not on other portions of a Lot in use by Owner. Maintenance of all driveways is the responsibility of the Owner.

Section 13. On-Street Parking. The Owner of each Lot shall provide for adequate parking space on the Lot for vehicles of all types and all other apparatus designed for movement over and upon the private streets or highways (whether self-propelled or not) and regularly used by the residents of the single-family residence on the Lot. No automobiles, trucks, vans, travel trailers, other trailers or any other apparatus designed for movement over and upon private streets or highways (whether self-propelled or not) shall be regularly parked on the private streets within the Subdivision or adjoining the Property, and motor vehicles licensed to carry more than two (2) tons shall not be permitted to park overnight or regularly on the streets, driveways or otherwise within the Property, except that Declarant may allow such parking by any such vehicles used in connection with the construction of improvements within the Property. In addition and supplemental to the prohibitions on parking set forth in this Declaration, the Board is empowered to promulgate and enforce rules and regulations, as approved by the Town of Apex, relating to parking on the streets within or adjoining the Property.

Section 14. No Temporary Structure. No structure of a temporary character, such as a trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a dwelling house.

Section 15. Landscaping. Except for driveways, sidewalks and other Improvements on each Lot, the surface of each Lot shall be of undisturbed areas left in their natural state or grass or other live foliage or areas covered with mulch and/or other ground cover approved by the Architectural Control Committee, and such natural areas, grass, foliage, mulch and ground cover shall be neatly maintained at all times.

Section 16. Fences and Walls. Except as specifically approved in writing by the Architectural Control Committee no fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street fronting such Lot than the front building corner of the main dwelling constructed on such Lot and shall not exceed the height approved by, the Architectural Control Committee. All fences on Lots shall be maintained at all times in a structurally sound and attractive manner and in a good state of repair. All fences on Lots shall be of such materials and in accordance with such plans and specifications as are approved by the Architectural Control Committee and no fence shall be constructed, placed or allowed to remain on any Lot until the Owner thereof has obtained approval for such fence from the Architectural Control Committee and has obtained all other approvals required by this paragraph.

Section 17. Sight Line Limitations. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at a point twenty (20) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

ISSUE #1

Section 18. Antennae. No exterior antennae, earth satellite station, microwave dish or other similar improvements may be constructed, placed, maintained or allowed to remain on any Lot or on any Improvement located on any Lot unless the same is no greater than thirty-six (36) inches in

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 18. (p. 19): FCC OTARD preemption conflict (47 C.F.R. § 1.4000): Outright antenna/satellite-dish prohibition, sub-1-meter diameter cap, mandatory cable-hookup removal, permit fee, or unqualified front-elevation/street-visibility ban is unenforceable as applied to covered <= 1-meter reception devices on exclusive-use property.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: Under the FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, including FCC 21-10), preemption applies to covered direct-broadcast satellite (DBS/DSS) dishes one meter (39.37 inches) or less in diameter, television broadcast antennas, and fixed wireless broadband antennas installed within areas under the owner's or occupant's exclusive use or control. Outright bans, sub-1-meter diameter caps, monetary permit fees, mandatory removal upon cable availability, and unqualified front-elevation or street-visibility prohibitions that preclude an acceptable quality signal are preempted unless justified by a documented safety objective (§ 1.4000(b)(1)) or a National Register historic site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:

Antennae. No exterior antennae, earth satellite station, microwave dish or other similar improvements may be constructed, placed, maintained or allowed to remain on any Lot or on any Improvement located on any Lot unless the same is no greater than thirty-six (36) inches in diameter and is screened by materials approved by the Architectural Control Committee so that it cannot be seen from any adjacent Lot.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that for covered reception antennas and satellite dishes one meter (39.37 inches) or less in diameter installed within areas under the owner's or occupant's exclusive use or control, this provision shall be administered in accordance with 47 C.F.R. § 1.4000 without outright prohibition, permit fee, or placement/size limits that preclude an acceptable quality signal, while preserving association authority over shared common elements, dishes exceeding one meter, documented safety objectives (§ 1.4000(b)(1)), and historic preservation sites (§ 1.4000(b)(2)).