plat. 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. Service to the individual residences shall be underground.

ARTICLE XXII

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 Wake County, the Town of Cary or other appropriate Governmental Authority.

ARTICLE XXIII

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 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 Declarant on the Common Ground.

ISSUE #1

ARTICLE XXIV

No exterior television or radio antennae, towers, satellite dishes, or similar structures will be allowed on any Lot in the Properties.

ARTICLE XXV

The drying of clothes in public view is prohibited.

BRADY, SCHILAWSKI, EARLS and INGRAM
ATTORNEYS AT LAW
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CARY, NORTH CAROLINA 27512

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. XXIV (p. 8): 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 or radio antennae, towers, satellite dishes, or similar structures will be allowed on any Lot in the Properties.

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)).