

Section 6. Violations. If any structure shall be erected, placed, maintained upon any lot or any use is commenced upon any lot, other than in accordance with approval by the Architectural review Committee as prescribed herein, such alteration, erection, maintenance, or use shall be deemed to have been undertaken in violation of this Declaration and without the approvals required herein and, upon written notice from the Architectural Review Committee, any such structure so erected, placed, maintained, or altered upon any lot in violation hereof shall be terminated so as to extinguished such violation. If within fifteen (15) days after the notice of such violation, the owner of the lot upon which such violation(s) exists shall not have taken reasonable steps toward the removal and termination of same, Declarant, or its successors or assigns, or the Architectural Review Committee shall have a right, through its agents and employees, to enter upon such lot and to take such steps as may be necessary to extinguish such violation. Declarant, or its successors or assigns, or the Architectural Review Committee, or any such agent of either, shall not thereby be deemed to have trespassed upon such lot and shall be subject to no liability to the owner or occupant of such lot for such entry taken in connection with the removal of any violation. The cost and abatement or removal hereunder plus a twenty-five percent (25%) allowance for overhead shall be binding, personal obligation of such owner as well as a lien on the owner’s lot. The same being enforceable in the same manner as an assessment upon the lot in question.

The Architectural Review Committee shall have the power and authority to waive unintentional violations and consent to minor deviations in the minimum setback requirements provided that such deviation or violation amounts to no more than twenty-five percent (25%). Any such waiver or consent shall not be construed as a waiver of any other violation on such lot or as a waiver of any violation of setback requirements or additional restriction on any other lot.

V

Utilities Easement: Bluto Builders, Inc. hereby reserves an easement in and to rights at any time in the future to grant a ten (10) foot right of way over, under and along the front and rear lot lines and a five (5) foot right of way on each side line for the installation and maintenance of pipe and other equipment necessary to or useful for furnishing electric power, gas, telephone service and other utilities to the lots in the said subdivision. Any gas or propane oil tanks must be located to the rear of the residence and out of sight from view of adjoining lots or buried so as not to be seen from other lots.

VI

Prohibitions Against In Ground Satellite Dishes, Animals, Poultry, Offensive Use, Temporary Residences, etc.: There shall be no in ground satellite dishes located on any lot, however, window or attic mounted satellite dishes not exceeding eighteen (18) inches in diameter shall be allowed; no animal or poultry of any kind other than household pets shall be kept or maintained on any lot. The number of household pets ~~generally considered to be outdoor pets such as dogs, cats, etc. shall not exceed three~~ (3) in number except for newborn offspring of such household pets which are under nine (9) months in age. No noxious or offensive trade or activity shall be carried on upon any

Sec. 6. (p. 5): 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:

Prohibitions Against In Ground Satellite Dishes, Animals, Poultry, Offensive Use, Temporary Residences, etc.: There shall be no in ground satellite dishes located on any lot, however, window or attic mounted satellite dishes not exceeding eighteen (18) inches in diameter shall be allowed; no animal or poultry of any kind other than household pets shall be kept or maintained on any lot.

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).