

(b) the right of the “Association” to suspend the voting rights and right to use of the recreational facilities for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

MARKUP #1 ->

(c) the right of the “Association” to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded; provided, however, that no membership vote shall be required with respect to easements granted by the “Association” pursuant to Article VIII hereof.

(d) the right of the “Association” to limit the number of guests of members;

(e) the right of the “Association”, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid hereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to Common Area. The Declarant hereby covenants for itself, its successors, and assigns, that it will convey fee simple title to the Common Area to the “Association”, free and clear of all encumbrances and liens except utility easements and the easements, restrictions, covenants and condition set forth herein. Further, if ad valorem taxes for the current year have been separately assessed against the Common Area, the same shall be prorated between Declarant and the “Association” as of the transfer date; otherwise such taxes shall be paid by Declarant.

ISSUE #1

Section 4. TV Antennas. The “Association” may provide one or more central television antennas or satellite dishes for the convenience of the members and the cost of these may be included in annual or special assessments. The “Association” may regulate or prohibit the erection of television antennas and other communications devices on individual lots.

No residence shall have more than one (1) standard television or radio antenna, which antenna shall be actually attached to the residence. Television or radio reception “discs” are specifically not included in the definition of “standard television or radio antenna”. No residence shall erect, install or utilize such discs.

Section 5. Additional Restrictions. (a) No residence shall have any outside clothes lines unless the same is installed behind the residence and not easily visible from any roadway. (b) No owner shall park any boat, camper, trailer, commercial truck, tractor, van or similar vehicle on any street within the subdivision or permit the same to be stored or regularly parked upon any lot within the subdivision except in a garage or well-screened enclosure located and constructed in accordance with other provisions of this Declaration. (c) Each lot owner shall provide receptacles for garbage in a screened area not generally visible from the road, or provide underground garbage receptacle or similar facility in accordance with reasonable standards established by the architectural committee as hereinafter defined. (d) No residence shall be built that does not comply with the R-6 setback requirements of the Forsyth County Zoning Ordinance which shall be currently in effect.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a Member of the “Association”. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The “Association” shall have two classes of voting membership:
Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.
Class B. The Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
(a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter,

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 4. (p. 2): 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:

TV Antennas. The "Association" may provide one or more central television antennas or satellite dishes for the convenience of the members and the cost of these may be included in annual or special assessments.

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).