

ISSUE #1

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1.04 All structures or improvements commenced by an owner of any Building Lot within the Subdivision must be completed within six (6) months from the date of commencement unless otherwise approved by the Architectural Control Committee.

1.05 A front walk pole light operated by a photo optic cell (or other darkness sensing technology) that illuminates automatically at darkness shall be installed in the front yard of each Building Lot at the time of construction of a dwelling thereon. The Building Lot owner shall maintain the light in operating condition at all times.

1.06 No antenna or radio, television or microwave tower shall be erected or maintained on any Building Lot or attached to any structure in the Subdivision. No satellite dish shall be erected or maintained on any Building Lot or attached to any structure in the Subdivision without the approval of the Architectural Control Committee. The Architectural Control Committee may deny any such request for approval in its sole and absolute discretion or may attach such conditions as it deems necessary or appropriate.

1.07 No residence shall have a sump pump which discharges directly into the street through a curb.

1.08 No building shall be located nearer to any street than the building setback line shown on the recorded plat of the Subdivision. The setback areas designated on the recorded plat shall be for lawn purposes only. This covenant shall not be construed to prevent the use of the setback areas for walks, drives, trees, shrubbery, flowers, or ornamental plants used for the purpose of beautification.

1.09 No structures or materials shall be placed or permitted within the utility or drainage easement areas as designated on the recorded plat of the Subdivision. Plantings within said utility or drainage easement areas are at the Building Lot owner's sole risk of loss if such plantings, as determined solely by the applicable utility company or the Architectural Control Committee, would damage or interfere with the installation or maintenance of utilities or would change or retard the flow of surface water from its proper course. Each Building Lot owner shall maintain such portion of any utility or drainage easement area as is located upon such owner's Building Lot.

1.10 No business activities of any kind shall be conducted on any Building Lot or open space in the Subdivision without the approval of the Homeowners' Association; provided, however, that the foregoing shall not apply to the business activities of Developer or the construction, sale, or maintenance of Building Lots and residences by authorized builders or by Developer, its agents, or assigns, during the construction and sales period.

1.11 No outside drying or airing of clothes shall be permitted on any Building Lot except in an enclosed area, not visible to the public.

1.12 No buses, campers, motor homes, trailers, boats, or other similar recreational vehicles shall be stored on any Building Lot. All automobiles, trucks, motorcycles, vans, jet skis, snowmobiles or other such vehicles shall be housed within a garage building. No inoperable vehicles shall be stored on any Building Lot.

1.13 No exterior portion of any Building Lot shall be used as a dumping ground or storage area for, rubbish, machinery, scrap, paper, glass or other such materials. Garbage or other waste shall be kept in trash containers. All containers used for the storage or disposal of trash or recyclable materials shall be kept in a clean and sanitary condition and screened from public view. Building materials to be used in the

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 1.06 (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:

No antenna or radio, television or microwave tower shall be erected or maintained on any Building Lot or attached to any structure in the Subdivision. No satellite dish shall be erected or maintained on any Building Lot or attached to any structure in the Subdivision without the approval of the Architectural Control Committee. The Architectural Control Committee may deny any such request for approval in its sole and absolute discretion or may attach such conditions as it deems necessary or appropriate.

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).