

MARKUP #1 ->

outlooks. These guidelines have been prepared to direct the future development activities of the Westlake development. It is everyone’s hope that the original vision of the Westlake development as a community will be realized and maintained.

Excellence is the hallmark of the Westlake development. That excellence is achieved through careful planning, quality construction, and by providing mechanisms to direct community activities. The guidelines contained in this letter will ensure excellence by establishing standards for all residences.

These guidelines are not meant to restrict, but to guide, allowing for creativity and individuality to be expressed. We ask your assistance and cooperation in following these guidelines to make Westlake development a lastingly beautiful community.

The Westlake development has a master plan to include over 400 residential dwelling units, including single family homes and apartments. In addition, land is set aside for nearly 45 acres of open space. Together, these uses provide for a balanced community where people play, live, and work.

In order for the Westlake development to function as an integrated community, both now and in the future, the development established a homeowner’s association. The Westlake Homeowners Association (the “Association”) was established under the laws of the State of Oregon as a nonprofit corporation on June 23, 1983. The Association was originally called the “Kruse Oaks Homeowners Association.” On October 12, 1984, the name was changed to its present version. Responsibility for the administration and management of the Association’s affairs was turned over to the members of the Association by the developer on June 1, 1987. Each homeowner and lot owner is a member of the Association.

USE OF COVENANTS AND GUIDELINES

The Westlake development is subject to certain recorded covenants and restrictions (the “Covenants”). The Covenants and these guidelines are intended to establish and maintain a harmonious community image for the Westlake development. Through the Covenants and the design review process created therein, a consensus is achieved between individual aesthetic judgment and the broader interests of community standards. The Covenants are embodied in a legal document accepted by every homeowner when title to the property is taken. The Covenants establish an architectural design review committee (the “Design Review Committee”) and require the Design Review Committee’s written approval before any change to a site or building exterior is made.

As stated in the Covenants, “No structure, whether residence, accessory building, tennis court, swimming pool, antennae, flagpoles, fences, . . . or other improvements, shall be constructed or maintained upon any lot or unit and no alteration or painting to the exterior of a structure shall be made and no landscaping performed unless complete plans, specifications and lot plans therefore, showing the exterior design, height, building material, and color scheme thereof shall be submitted to and approved by the Architectural Design Review Committee.” Simply stated, no new construction or modification to existing construction is to occur on any lot or exterior of any home without the prior approval of the Design Review Committee. The Design Review Committee’s responsibility is to ensure that the harmonious, high quality image of the Westlake development is implemented and maintained.

ISSUE #1

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. USE OF COVENANTS AND GUIDELINES (p. 3): 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:

building, tennis court, swimming pool, antennae, flagpoles, fences, . . . or other improvements, shall be constructed or maintained upon any lot or unit and no alteration or painting to the exterior of a structure shall be made and no landscaping performed unless complete plans, specifications and lot plans therefore, showing the exterior design, height, building material, and color scheme thereof shall be submitted to and approved by the Architectural Design Review Committee.

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).