ISSUE #1

MARKUP #1 ->

(o) No satellite dish antenna, television antenna, "earth station", radio antenna or towers of any kind shall be permitted to be erected upon any Lot or upon the single family dwelling constructed upon any Lot. This restriction shall not prohibit a small dish antenna not to exceed two (2) feet in diameter attached to a single family dwelling.

(p) No noxious, unsightly or offensive activity, including vehicle repairs, shall be conducted upon any Lot or any streets within the Planned Community nor shall anything be permitted to be done thereon which may be or may become an annoyance or nuisance to other Lot Owners. Notwithstanding the proceeding, a Lot Owner may make vehicle repairs provided that said repairs are conducted in the Lot Owner's attached garage.

(q) Resubdivision of any Lot by any Lot Owner is prohibited. This restriction shall not apply to Declarant. Acquisition of two (2) or more abutting Lots and constructing one (1) single family detached dwelling shall not be deemed a "resubdivision" or a "subdivision" and is permissible, subject to municipal requirements.

(r) All Lots are to maintained in clean and sanitary condition and all lawns, shrubs and other vegetation shall be groomed and maintained regularly as needed. All sidewalks and driveways located on any Lot or within the right-of-way of the street abutting such Lot shall be kept free of snow, ice and debris.

(s) All driveways shall be bituminous asphalt or concrete. All driveways, final grading and seeding must be completed at the time of completion of the single family dwelling. Landscaping shall be completed within six (6) months after completion of the single family dwelling, weather permitting.

(t) Location, style and design of mailbox shall be approved by Declarant.

(u) The exterior colors of all single family dwellings, including shutters and exterior doors, shall be approved by Declarant.

(v) No above-ground swimming pools shall be permitted. No in-ground swimming pools shall be permitted with respect to a Lot upon which a single family attached dwelling or a single family semi-detached dwelling has been or will be constructed. An in-ground swimming pool shall be permitted upon a Lot on which a single family detached dwelling has been constructed and said in-ground swimming pool shall be constructed at the rear of the single family detached dwelling constructed upon the Lot.

(w) The exterior walls of all single family attached dwellings, all single family detached dwellings and all single family semi-detached dwellings, to include the garage and accessory building, shall extend to or below the ground level so that no part of the foundation will show; parge will be considered part of the foundation. Building blocks or concrete shall not be used in the exterior wall of any single family dwelling, garage and accessory building above the finished grade of the ground unless covered with brick,

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. BOOK PAGE (p. 21): FCC OTARD preemption conflict (47 C.F.R. § 1.4000): Outright antenna/satellite-dish prohibition, sub-1-meter diameter cap, mandatory cable-hookup removal, permit fee, or unqualified front-elevation/street-visibility ban is unenforceable as applied to covered <= 1-meter reception devices on exclusive-use property.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: Under the FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, including FCC 21-10), preemption applies to covered direct-broadcast satellite (DBS/DSS) dishes one meter (39.37 inches) or less in diameter, television broadcast antennas, and fixed wireless broadband antennas installed within areas under the owner's or occupant's exclusive use or control. Outright bans, sub-1-meter diameter caps, monetary permit fees, mandatory removal upon cable availability, and unqualified front-elevation or street-visibility prohibitions that preclude an acceptable quality signal are preempted unless justified by a documented safety objective (§ 1.4000(b)(1)) or a National Register historic site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:

) (w) No satellite dish antenna, television antenna, "earth station", radio antenna or towers of any kind shall be permitted to be erected upon any Lot or upon the single family dwelling constructed upon any Lot.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that for covered reception antennas and satellite dishes one meter (39.37 inches) or less in diameter installed within areas under the owner's or occupant's exclusive use or control, this provision shall be administered in accordance with 47 C.F.R. § 1.4000 without outright prohibition, permit fee, or placement/size limits that preclude an acceptable quality signal, while preserving association authority over shared common elements, dishes exceeding one meter, documented safety objectives (§ 1.4000(b)(1)), and historic preservation sites (§ 1.4000(b)(2)).