The containers shall be removed promptly after collection.

(h) No Owner or occupant of a Lot shall obstruct, interfere with or alter in any way any storm water management system or Facility relating thereto or any easement located in whole or in part on such Lot. The foregoing restriction shall include, but is not necessarily limited to, modifying or obstructing the surface area of any land within a stream or drainage easement, allowing growth of trees or shrubs within such areas if the growth of such trees or shrubs would interfere with the flow of surface water or otherwise impair the function of Facilities or systems, and allowing the accumulation of debris within such areas.

(i) Each Owner shall be responsible at such Owner's sole expense for grading, seeding, care and maintenance of any grounds, sidewalk, and trees between the road curb and the Owner's lot line and on the Owner's Lot.

ISSUE #1

(j) Antennae for broadcast or reception, satellite signal reception dish, or any other device for signal broadcast or reception may not be erected or installed on any Lot or dwelling.

(k) No building, dwelling modification, fence, wall, inground pool, driveway or other permanent structure shall be constructed, erected or maintained, nor shall any additions to or change to any Lot or dwelling be made, including any change to exterior color(s), exterior, materials, exterior lighting or grading, nor shall any shrubbery, bushes or trees be planted which would act as a fence or screen until approval has been received in writing from Declarant pursuant to Sections 2 and 3 herein.

Section 2. Review and Approval by Declarant. Any construction, erection or maintenance, or modification to any dwelling on a Lot as delineated in Section (k) herein ("Changes") may not occur until and unless plans and specifications are approved in writing by the Declarant. Such plans and specifications shall be in duplicate (one copy of which shall be retained by the Declarant) and shall show the nature, shape, height, materials, floor plans, if applicable, exterior color(s), exterior elevations and locations of such Changes as well as a grading and landscaping plan including topography and contours of the ground. After the Declarant has conveyed all Lots owned by it to Owners, the review and approval rights of the Declarant pursuant to this Article VIII shall vest in the Board of

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. (f) (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:

(j) Antennae for broadcast or reception, satellite signal reception dish, or any other device for signal broadcast or reception may not be erected or installed on any Lot or dwelling. O FF

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)).

UNOFFICIAL