

MARKUP #1 ->

MARKUP #1 - CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 6.28 (p. 22): 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:
microwave, cable, or satellite reception on the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street or from another lot are prohibited within the Property, except (1) reception-only antennas or satellite dishes designed to

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).

or object that violates this Section or which the Board deems inconsistent with neighborhood standards without liability for trespass or any other liability connected with the removal.

6.26 SIGNS – POLITICAL. If public law grants an owner the right to place political signs on the owner's lot, the Association may not prohibit an owner's exercise of such right. The Association may adopt and enforce Chateaus Rules regulating every aspect of political signs on owners' lots to the extent not prohibited or protected by public law. Unless the Chateaus Rules or public law provide otherwise (1) a political sign may not be displayed more than 90 days before or 10 days after an election to which the sign relates; (2) a political sign must be ground-mounted; (3) an owner may not display more than one political sign for each candidate or ballot item; and (4) a political sign may not have any of the attributes itemized in Texas Property Code Sec. 202.009(c) or any other applicable statute, to the extent the statute applies to the lot.

6.27 STRUCTURAL INTEGRITY. No person may directly or indirectly impair the structural soundness or integrity of a building or another townhome, nor do any work or modification that will impair an easement or real property right.

6.28 TELEVISION. Each resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street or from another lot are prohibited within the Property, except (1) reception-only antennas or satellite dishes designed to receive television broadcast signals, broadcast satellite service (DBS), or (3) antennas or satellite dishes that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS) (collectively, the "Antenna") are permitted if located (a) inside the structure (such as in an attic or garage) so as not to be visible from outside the structure, (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a structure below the eaves. If an owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the owner may install the Antenna in the least conspicuous location on the lot where an acceptable quality signal can be obtained. The Association may adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law.

6.29 TRASH. Each resident will endeavor to keep the Property clean and will dispose of all refuse in receptacles designated specifically by the Association or by the city for that purpose. Trash must be placed entirely within the designated receptacle. The Board may adopt, amend, and repeal rules regulating the disposal and removal of trash from the Property. If the rules fail to establish hours for curbside trash containers, the container may be in the designated area from dusk on the evening before trash pick up until dusk on the day of trash pick-up. At all other times, trash containers must be kept inside the garage and may not be visible from a street or another townhome.

6.30 VARIATIONS. Nothing in this Declaration may be construed to prevent the Architectural Reviewer from (1) establishing standards for one building, type of building, or phase in the Property that are different from the standards for other buildings or phase, or (2) approving a system of controlled individualization of townhome exteriors.