

Village Northwest Subdivision

Section 6.17 Sidewalks: A concrete sidewalk three (3) feet wide shall be constructed parallel to the curb two (2) feet from the property line along the entire front of all lots. In addition thereto, a three (3) foot wide sidewalk shall be constructed parallel to the curb two (2) feet from the property line along the entire side of all corner lots, and the plans for each residential building on each of said lots shall include plans and specifications for such sidewalk and same shall be constructed and completed before the main residence is occupied. In the case of a corner lot, the front and side sidewalks shall each extend to the street curb, and shall provide curb ramps for the handicapped and must be constructed in full compliance with Section 228 of the Highway Safety Act of 1973, and all amendments thereto, and all rules, regulations and interpretations there under.

Village Northwest Subdivision

ISSUE #1

Section 6.18 Maximum Height of Antennae: No radio or television aerial wired or antennae shall be maintained on any lot; nor shall any free standing antennae of any style be permitted to extend more than ten (10) feet above the roof of the main residential structure on said lot.

ARTICLE VII
EASEMENTS

Section 7.1 Construction: Each lot and the property included in the Common Area shall be subject to the easement for encroachments created by construction, setting and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist.

Section 7.2 Utility, Emergency, and Association: There is hereby created a blank easement upon, across, over and under all of said property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna systems. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said residences.

An easement is further granted to all police, fire protection, ambulance, garbage and trash collector pickup vehicles and all similar persons to enter upon the Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees and any other management company selected by the Association to enter in or cross over the Common Area and any lot to perform the duties of maintenance and repair of the Common Area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, poles, electrical lines, water lines or other utilities may be

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 6.18 (p. 16): 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:

Maximum Height of Antennae: No radio or television aerial wired or antennae shall be maintained on any lot; nor shall any free standing antennae of any style be permitted to extend more than ten (10) feet above the roof of the main residential structure on said lot.

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).