



MARKUP #1 ->

fencing as approved by the ACC. All fence plans must be submitted to and approved by the ACC prior to construction.

General guidelines for fences shall include: (1) no woven metal or chain link fences will be allowed except as approved by the ACC as small area pet enclosure (i.e. dog run), such pet enclosures to be screened by privacy fencing from direct view from the street as well as other fencing and/or plant materials as may be required and approved by the ACC; (2) have wooden or steel poles or posts; (3) minimum six (6) feet and a maximum eight (8) feet above grade in height; (4) have slats at least ¾ inch thick and measuring between three and one-half (3 1/2) inches and six (6) inches wide, which are installed vertically only (not horizontally or diagonally); (5) be installed with the smooth surface side facing the street (“good-side-out”) on side Lot lines of all corner Lots, such that no vertical fence posts or horizontal supports are visible from the street on the side of such corner Lots; and (6) other than with a neutral (clear) stain, shall not be painted or stained on any surface which is visible from the ground level of any street or adjoining Lot. Vinyl fencing shall not be permitted except as approved in advance by the ACC.

The provisions of this Section 8.10 shall not be applicable to the construction or erection of any fence, wall or hedge on the Common Properties.

ISSUE #1

8.11 Antennae, Satellite Dishes and Solar Collectors. No Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collector panels or equipment upon any Lot unless (a) such apparatus is erected and maintained in such a way that it is screened from public view at a point in the center of the public street right-of-way directly in front of the Dwelling Unit erected on such Lot, and (b) the Owner has received the prior written approval from the ACC to the size, location and screening of such apparatus.

8.12 Chimneys. All fireplace flues and smoke stacks (other than spark arrestors) shall be completely enclosed and concealed from public view in finished chimneys constructed of materials architecturally compatible with the principal finish material of the exterior walls of the Dwelling Unit or as otherwise approved in writing by the ACC.

8.13 Clothes Hanging Devices. Exterior clothes hanging devices shall not be permitted unless completely screened from public view.

8.14 Window Treatment. No aluminum foil, reflective film, signs or similar treatment shall be placed on windows or glass doors. Mini-blinds may be placed in window openings only if the color is white, tan or cream or otherwise has been approved in advance by the ACC.

8.15 Garages; Driveway Parking. No Dwelling Unit shall be constructed unless a garage is also constructed and maintained on that Lot large enough to accommodate at a minimum two (2) full size automobiles. Open carports are not permitted. In the Homestead Subdivision, garages with entrances directly facing the street shall be equipped with an electrical or mechanical garage

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 8.11 (p. 21): 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:

Antennae, Satellite Dishes and Solar Collectors. No Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collector panels or equipment upon any Lot unless (a) such apparatus is erected

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).