

ISSUE #1

(d) The foregoing restrictions shall not be applicable to the construction or erection of any fence, wall or hedge on any Lot or the Common Property by Declarant.

7.11 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 the 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 Architectural Committee to the size, location and screening of such apparatus.

7.12 Chimneys. All fireplace flues, smoke stacks and spark arrestors shall be completely enclosed and concealed from public view in finished chimneys.

7.13 Clotheslines. No clotheslines shall be erected or installed and no clothing, linens or other material shall be aired or dried so as to be visible from the street.

7.14 Window Treatment. No aluminum foil, reflective film, signs or similar treatment shall be placed on windows or glass doors.

7.15 Temporary Structures. No temporary structure of any kind shall be erected or placed upon any Lot. No trailer, mobile, modular or prefabricated home, tent or shack shall be placed on any Lot, either temporarily or permanently, and no residence house, garage or other structure appurtenant thereto, shall be moved upon any Lot from another location; except, however, that Declarant reserves the exclusive right to erect, place and maintain, and to permit builders and Owners to erect, place and maintain such facilities in and upon the Property as in its sole discretion may be deemed necessary or convenient during the period of and in connection with the sales of Lots, construction and selling of residential structures and constructing other improvements on the Property. Such facilities may include, but not necessarily be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales office. Declarant and builders of residential structures on Lots shall also have the temporary right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with construction and sales or leasing operations on the Property, but in no event shall a builder have such right for a period in excess of one (1) year from the date of substantial completion (as defined by the American Institute of Architects) of his last residential structure on the Property.

7.16 Trash Receptacles and Collection. All trash receptacles shall be screened by fences or shrubbery so as not to be generally visible by the public, unless otherwise approved by the Architectural Committee in writing. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the applicable governmental authority, and/or the Association, in connection with the storage and removal of trash and garbage. All Lots shall at all times be kept in a healthful, sanitary and

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 7.11 (p. 23): 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:

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).