

MARKUP #1 ->

Section 15. Owner’s Maintenance. The Owner shall in addition to the other requirements contained in this instrument, maintain and keep in repair the following equipment and lines located outside the residence: air conditioning compressor and condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the sanitary sewer collection system, electric power service conductors, utility company’s junction box or transformer, electric circuit breakers, and/or telephone service lines located on the Lot but not maintained by the electric and telephone companies. If any Owner fails to maintain his Lot in accordance with this paragraph, and following reasonable notice and opportunity to cure which shall not be less than thirty days, the Association may cause the required work to be done at the Owner’s expense, and the amounts so expended shall be added to and become a part of the Assessment and Assessment lien on the Owner’s Lot, in the said manner and to the same extent as specified in Article IV. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another residence or the Common Areas or impair any easement or hereditament, nor do any act nor allow any conditions to exist which, in the exclusive opinion of the Board of Directors, will adversely affect the Common Areas the other residences or their Owners.

ISSUE #1

Section 16. Outside Antennae and Satellite Dishes. All outside antennas must be approved by the ACC. No exterior Antenna of any sort shall be placed, allowed or maintained more than ten (10) feet above the highest point on the improvement or structure upon which it is located. The ACC may waive the foregoing upon the written recommendation of a technician that such a waiver is necessary for reasonable television reception or amateur radio communication. No satellite dishes of any sort will be placed on any Lot or structure located upon the property.

Section 17. Enforcement and Notice. Before the Association may suspend an Owner’s right to use the Common Area, file a suit against the Owner (other than a suit to collect a regular or special Assessment or foreclose under an association’s lien), charge an Owner for property damage, levy a fine for a violation of the covenants or bylaws or rules of the Association, or report a delinquency to a credit reporting service, the Association must provide written notice to the Owner via certified mail. (See Texas Property Code 209.006) The notice must provide the following:

- a) Describe the violation or damage that is the basis for the suspension action or fine, and

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 16. (p. 26): 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:
Outside Antennae and Satellite Dishes. All outside antennas must be approved by the ACC. No exterior Antenna of any sort shall be placed, allowed or maintained more than ten (10) feet above the highest point on the improvement or structure upon which it is located.

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).