

Section 10. Lot Maintenance. Maintenance, upkeep and any repairs of any patio, patio covers, screens, window screens, screen doors, exterior doors, and window fixtures, and other hardware shall be the sole responsibility of the individual Owner and the Lot appurtenant thereto and not in any manner a responsibility of the Association. In the event of default on the part of the Owner or occupant of any Lot in observing any or all of the above requirements, such default having continued ten (10) days' after written notice thereof has been mailed, Declarant, or its assignee, may without liability to the Owner or occupant in trespass or otherwise, enter upon such Lot and correct said default or defaults or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Property to pay such charge promptly upon receipt of a statement thereof.

ISSUE #1

Section 11. Antennas. No electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Lots or buildings constructed in this subdivision. Television antennas may be attached to a structure so long as it is hidden from sight when viewed from the fronting street. No antennas shall be erected as free-standing structures.

Section 12. Removal of Dirt and Trees. The digging of dirt or the removal of any dirt from any Lot is expressly prohibited except as necessary to the landscaping of or construction on such Lot. No trees shall be cut except to provide room for construction of improvements or to remove dead or unsightly trees and shall be done only after obtaining the written approval of the Architectural Control Committee, such approval to be given in the sole discretion of said Committee.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. XIII (p. 27): 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:

Antennas. No electronic than an antenna for receiving normal television be erected, constructed, placed or permitted to remain on any Lots or buildings constructed In this antennas may be attached to a structure Television ts hidden from sLght when vLewed from the fronting antennas sha1l be erected as free-standing Section of dirt antenna or devi"ce 12.

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).