

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. USAGES (p. 7): 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:

but may not project above the highest point on the roofline. One satellite dish may be placed, with variance approval by the Architectural Control Committee, on the side yard of each lot and shall not extend above the highest point of the roof adjacent to that specific location.

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).

6. Open storage of any type is strictly prohibited on any lot or dock, including a boat, trailer, or recreational type vehicle unless specifically approved by variance of the Architectural Control Committee. One radio, television, or other receiving or transmitting tower may be placed on each lot but may not project above the highest point on the roofline. One satellite dish may be placed, with variance approval by the Architectural Control Committee, on the side yard of each lot and shall not extend above the highest point of the roof adjacent to that specific location.

7. No drying of clothes out of doors nor clothes lines suitable for the drying of clothes will be permitted in this subdivision.

8. No member of the Association will restrict the use of the Canal Waterway System by any other member, and each member is granted an easement and right to reasonably use the entire Canal Waterway System in common with each other member, PROVIDED that such reasonable use of the Canal Waterway System shall extend only to the water surface thereof and such easement granted herein shall not grant any member the right to use any other part of the Utility, Wall Maintenance or Flowage Easement shown on the recorded plat existing on any other member's property.

9. The owner of such lot shall comply in every manner with the rules and regulations of the Brazos River Authority regarding docks and the pumping of water from the Canal Waterway System. Further, no dock attached to any lot shall extend more than thirty (30) feet from the shoreline of such lot. No enclosed docks or enclosed boat sheds shall be permitted. Construction of any dock or boat shed shall be subject to approval of the Architectural Control Committee and shall have a 4 feet in 12 feet sloped roof of like roofing material as the residence.

10. Grass, weeds and vegetation on each lot in this addition must be kept mowed at regular intervals so as to maintain the same in a neat and attractive manner. Upon failure to so maintain a lot, the Architectural Control Committee of the Water's Edge Homeowners' Association may as its option, have the grass, weeds and vegetation cut when, and as often as necessary in its judgement and the owner of the property shall be obligated to reimburse it for cost of such work, and the claim for such reimbursement will constitute a lawful lien against the lot when properly filed with the County Clerk.

11. All trash, ash, residues, and garbage must be collected in suitable covered containers and removed from the lot regularly by the garbage service licensee of the City of Granbury which service each lot owner herein shall subscribe to. No trash or garbage may be disposed of by burning on any of the aforesaid lots. No trash, ashes, or other residue may be thrown or dumped on any lot in this addition, or allowed to remain thereon. Each owner and designated contractor will be solely and completely responsible to keep all construction site (lot) free of debris and shall provide said site with a enclosed pen or container during construction.

12. No trucks or other commercial type vehicles shall be stored or parked on any resident's lot except while parked in a closed garage nor parked on any residential street in the Water's Edge addition except while engaged in transporting to or from a residence in the Addition. No vehicles of any type shall be parked on yard areas for any reason.

13. No structure except docks, piers, or pilings permitted by paragraph D.9 hereof shall be constructed nor any fill used to extend the property beyond the lot line of any waterfront property. Any boat dock, pier or similar structure shall be located no closer than fifteen (15) feet of any side lot line, save and except those lots deemed by Developer at the end or corners of the Canal Waterway System with smaller water frontage. No construction,