

ISSUE #1

MARKUP #1 ->

driven or parked only upon paved street and parking lots. No motor vehicles shall be driven on pathways or unpaved Common Areas.

Section 16. No clothes lines or other exterior clothes drying apparatus shall be permitted on any Site, except as approved in writing by the Architectural Review Board.

Section 17. Exterior television or other antennae are prohibited except as approved in writing by the Architectural Review Board.

Section 18. Storage, collection and disposal of trash and garbage shall be in compliance with rules and regulations promulgated by the Architectural Review Board.

Section 19. Trash, leaves and other similar materials shall not be burned within the perimeter of the Properties without the written consent of the Architectural Review Board.

Section 20. Only mail boxes and newspaper tubes meeting design standards of the Architectural Review Board shall be permitted, except for mail depositories which are the property of the United States Postal Service.

Section 21. No live tree with a diameter in excess of four (4) inches, as measured twelve (12) inches above ground level, and no trees in excess of three (3) inches in diameter, similarly measured, which are generally known as flowering trees (such as dogwood or crape myrtle) or as broadleaf evergreens may be cut down or removed without prior approval of the Architectural Review Board.

Section 22. The Architectural Review Board may issue temporary permits to except any prohibitions expressed or implied by these restrictions, provided the Architectural Review Board can show good cause and acts in accordance with adopted guidelines and procedures.

Section 23. Gas, electric and other utility services shall be underground to the buildings from the main distribution. No utility line or connection to any utility line at or above ground level shall be permitted.

Section 24. There shall not be effected or executed any agreement, lease, covenant, conveyance or other instrument whereby the sale, lease or occupancy of any Site if restricted upon the basis of race, creed, color, religion, sex or national origin.

Section 25. Each Owner will comply with all state and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, creed color, religion, sex or national origin in the sale, lease or occupancy of Sites. Each Owner agrees, on behalf of himself, his successors and assigns, not to discriminate on the basis of race, creed, color, religion, sex or national origin in the sale, lease, rental, use or occupancy of any Site or any improvements thereon.

ARTICLE IX. EASEMENTS

Declarant, and any assignee to whom such right is expressly assigned, reserves the right, whether or not such right is expressly reserved in any deed of conveyance of any part of the Common Area and/or Common Area Easements to the Association, to grant easements over, along, under and through the Common Area and/or Common Area Easements to the City of Norfolk or any utility company for drainage or utility purposes.

For a period of eight (8) years from the date of recordation of this Declaration, the Declarant reserves unto itself and its assignees a blanket easement and right on, over and under the ground within all of the property described above to maintain and to correct the drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees bushes or shrubbery, to make any gradings of soil, to install drainage pipe and catch basins, and to take any other similar action reasonable necessary to correct such drainage, following which the Declarant shall restore the affected property to its original condition to the extent practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice.

ARTICLE X. GENERAL PROVISIONS

Section 1. Enforcement. The Association, the Declarant or any Class A Member shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 17. (p. 16): 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:

Exterior television or other antennae are prohibited except as approved in writing by the Architectural Review Board.

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).