

ISSUE #1

MARKUP #1 ->

refuse storage areas on each Lot shall be visually screened so as not to be visible from neighboring Lots, Streets, or other Common Areas.

10.6: Utility Lines and Facilities. No facilities, antennae, equipment, wires or other devices for the communication or transmission of signals, power, electrical current, or any other electronic transmission, including without limitation telephone, television, microwave or radio signals, shall be constructed, placed or maintained anywhere in or upon any portion of a Lot, other than within buildings or enclosed structures unless the same shall be contained in conduits or cables constructed, placed or maintained underground or concealed in or under buildings or other enclosed structures; provided, however, that satellite dishes not exceeding twenty-four (24) inches in diameter may be allowed on buildings with the prior written approval of the Committee, and provided, further, that any approved satellite dish is placed on the building so as to meet the following standards: (a) the satellite dish is placed in the most discreet location practical as determined by the Committee; (b) the satellite dish is screened from view from adjacent Lots; and (c) the satellite dish is not visible from the Street in front of the Owner's Lot. Nothing contained herein shall be deemed to forbid the erection or use of temporary power or telephone facilities incidental to the construction or repair of buildings on a Lot.

10.7. Mechanical Equipment; Vehicles. All mechanical equipment, utility meters, storage tanks, air conditioning equipment and similar items shall be screened with landscaping or attractive architectural features integrated into the structure itself, as approved by the Committee. No unlicensed motor vehicles, such as motorcycles, dirt bikes, scooters, and ATV's, shall be permitted to operate on any Street or Lot. No major automotive repairs shall be permitted except for within enclosed garages which are kept closed. The only repairs permitted are occasional casual repairs and maintenance activities such as oil changes.

10.8. Mineral Exploration. No portion of the Property shall be used in any manner to explore for or to remove any steam, heat, oil or other hydrocarbons, gravel, earth, or any earth substances or other minerals of any kind. No excavation or fill shall be made nor shall any dirt be removed from any Lot; provided, however, that this shall not prevent the excavation of the earth in connection with the grading or construction of Improvements within a Lot. Water may be extracted to the extent permitted by all applicable governmental agencies.

10.9. Occupants. Any Owner may delegate to any Occupant the right to enjoy the Owner's Lot. All Owners shall be responsible for informing any Occupants of the contents of this Declaration and the rules regarding the use of such Lot, and shall be responsible for requiring its Occupants to comply with this ARTICLE 10.

ARTICLE 11. DAMAGE OR LOSS TO IMPROVEMENTS

11.1. Restoration of Common Areas. Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Common Areas or any other Improvements insured by the Association, the Association shall restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance shall be used for such purpose. The Board is authorized to have the necessary documents prepared and executed, and to take such other action so as to effect such reconstruction as promptly as practical. The Common Areas and all other Improvements shall be constructed or rebuilt substantially in accordance with the original construction plans available, with such changes as

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 10.6 (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:

Utility Lines and Facilities. No facilities, antennae, equipment, wires or other devices for the communication or transmission of signals, power, electrical current, or any other electronic transmission, including without limitation telephone, television, microwave or radio

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).

