

VOL 508 PAGE 230

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

2.05 DRIVEWAY.

Each Lot shall be improved by the Lot Owner with an asphalt or concrete driveway extending from the street to the garage within 24 months following issuance of an occupancy permit for the Home. A plot plan showing the location of the drive shall be submitted to the Board for its prior approval under Section 2.3 above.

2.06 CONSTRUCTION MATERIALS -- STORAGE.

No building or construction materials shall be stored on any Lot outside of the Home or garage, other than during periods of actual construction or remodeling and then only for so long as may be necessary. Excess excavated material shall not be stored on any Lot during or after construction without the prior approval of the Board, unless required for backfilling, finish grading, or landscaping.

2.07 WATER SUPPLY.

Each Home shall be connected to the water supply system as established in the Declaration of Water Trust or to the water supply system of the City or public utility and no individual wells shall be used or permitted.

2.08 SEWERAGE DISPOSAL.

Each Home shall be connected with the City or other common sewer system and no septic tank or other individual sewerage system shall be used or permitted.

2.09 GARBAGE DISPOSAL.

Each Home shall be equipped with a garbage disposal connected to the sanitary sewer. No incinerator or incineration system for burning garbage or debris shall be used or permitted.

2.10 WIRES AND ANTENNA.

a) All utility lines and wiring for gas, electric, telephone, and cable television service to a Home, garage or other improvement shall be installed underground, unless otherwise permitted by the Board prior to installation.

b) No roof-top, tower-mounted or other external antenna for television or radio reception or for other electronic transmission or reception shall be erected or used without the prior approval of the Board.

2.11 SIGNS AND MAILBOXES.

a. No sign or banner of any kind shall be placed or displayed to public view on any Lot, except: (1) one sign of not more than 6 square feet advertising the Property for sale; and (2) one standard sign (showing the Lot Owner's name) as may be approved by the Board for uniform use in terms of size, design, appearance and location for each Lot in the Subdivision.

Sec. 2.09 (p. 8): 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:

WIRES AND ANTENNA. a) All utility lines and wiring for gas, electric, telephone, and cable television service to a Home, garage or other improvement shall be installed underground, unless otherwise permitted by the Board prior to installation. b) No roof-top, tower-mounted or other external antenna for television or radio reception or for other electronic transmission or reception shall be erected or used without the prior approval of the 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).

ISSUE #1