5.21 Other Utilities. Except for temporary service during construction, all utilities serving any building or site must be underground. No building or other improvement, or trees may be erected, placed or planted within any utility easement. Liquid petroleum not allowed if natural gas available.

5.22 Construction Deadline. The external construction of each residential structure and its driveway must be completed, and its Lot must be fully landscaped, within twelve (12) months from the date of issuance of the building permit. The Committee may grant extensions of time due to extraordinary circumstances.

ISSUE #1

5.23 General. All buildings, dwellings, garages, outbuildings, satellite dishes, fences, walls, basketball hoops, lawn ornaments, tennis courts, swimming pools or other structures constructed or erected on any Lot must be approved prior to construction, in writing, by the Committee, as to placement, landscaping, materials, colors and design. No wind-powered electric generators or radio receiving or transmitting antennae may be placed on a Lot without approval of the Committee. Satellite dishes and exterior television antennas must be properly screened from view. The maximum allowable impervious surface per lot is 10,000 square feet. Any additional impervious surface installed is subject to additional stormwater features such as a rain garden within the Lot and must be approved by Dane County Land and Water Resources Department.

5.24 Variances. The Committee is authorized to grant variances from any provision of this ARTICLE V, except those sections of ARTICLE V listed in 9.8, where such variance would assist in carrying out the spirit and intent of this Declaration and where strict application of the provision would result in the hardship to the person seeking the variance.

5.25 Parade of Homes. While Declarant retains ownership of any Lots within the Subdivision, Declarant reserves the right to submit some or all of said Lots as a site for the Parade of Homes of the Madison Area Builders Association, its successors or assigns ("Parade of Homes"). In the event some or all of said Lots are selected as a site for the Parade of Homes, this Declaration will, as to the Lots enrolled in the Parade of Homes, for the limited period of time commencing 48 hours prior to the commencement of said Parade of Homes and ending 48 hours after the conclusion of said Parade of Homes, be deemed temporarily altered and modified, to the extent necessary, to permit the Parade of Homes to be held in the Subdivision pursuant to the then current Parade of Homes Rules and Developer's Checklist. All purchasers of Lots within the Subdivision, and their successors and assigns, must take title subject to this specific reservation by Declarant and must waive all rights to object to violations of this Declaration by Declarant, the Parade of Homes, or any of the builders or participants in such Parade of Homes during the period of such Parade(s) as set forth above. Parking for the Parade of Homes must be contained within the subdivision. Declarant must coordinate placement of parking signs within subdivision. Signs must be placed such that no parking will be permitted at any time for a Parade of Homes event on Spring Rose Road.

ARTICLE VI
USE RESTRICTIONS

6.1 Parking. Parking of service vehicles, tractors, lawn tractors, trailers, boats, travel trailers, mobile homes, campers, and other recreational vehicles is prohibited except in garages. Semi-tractors and trucks of over one-ton capacity may not be temporarily or permanently kept on any Lot except in conjunction with providing services of a temporary nature to the Owner of such Lot. This must not prohibit temporary parking of such vehicles for loading and unloading.

6.2 Appearance. Each Owner must be responsible for maintaining the Lot and structures approved by the Committee in neat appearance.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 5.23 (p. 11): 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:
General. All buildings, dwellings, garages, outbuildings, satellite dishes, fences, walls, basketball hoops, lawn ornaments, tennis courts, swimming pools or other structures constructed or erected on any Lot must be approved prior to construction, in writing, by the Committee, as to placement, landscaping, materials, colors and design.

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).