

Section 1: [Declaration Article IV, Section 4.01 & Section 4.08] Covenant for Assessments, Continuing Lien, and Power of Sale

MARKUP #1 ->

Each Owner of a Lot or Dwelling, by acceptance of a deed therefor, covenants and agrees to pay Base Assessments, Special Assessments, and Individual Assessments (including fines, late charges, interest at 18% per annum, and reasonable attorneys' fees) to the Association. All such assessments and charges shall be a continuing lien upon the Lot against which such assessment is made from the date due, and the Association may foreclose such lien in the same manner as a mortgage on real property with a power of sale under Alabama law.

ISSUE #1

Section 2: [Declaration Article V, Section 5.01 & Section 5.04] Architectural Review Committee (ARC) Jurisdiction and Authority

No structure, dwelling, fence, wall, mail box, pool, exterior lighting, antennae, satellite dish, or landscaping alteration shall be commenced, erected, or maintained upon any Lot until complete plans and specifications have been submitted to and approved in writing by the Architectural Review Committee (ARC). The ARC may withhold approval for any reason, including purely aesthetic considerations, in its sole and absolute discretion, and neither the ARC nor the Board shall be liable in damages to any Owner submitting plans for approval.

Section 3: [Declaration Article VI, Section 6.12] Satellite Dishes, Antennae, and Rooftop Equipment Prohibition

No exterior television or radio antennae, satellite dishes, solar collectors, or other rooftop receiving or transmitting equipment of any kind shall be placed, allowed, or maintained upon any portion of a Lot or Dwelling without prior written approval of the ARC, and any approved satellite dish must be completely screened from view from any street or neighboring Lot.

Section 4: [Declaration Article VI, Section 6.08] Signs, Flags, and Banners

No sign, poster, bill, banner, or flag of any kind shall be displayed to the public view on any Lot or Dwelling except one (1) standard real estate 'For Sale' sign approved by the ARC, or signs required for legal proceedings, without the prior written consent of the ARC.

Section 5: [Declaration Article VIII, Section 8.02 & Bylaws Article III] Enforcement, Fines, Self-Help Abatement, and Amendment

In the event of a violation of any provision of this Declaration, the Bylaws, or the Rules and Regulations, the Board of Directors may: (a) impose monetary fines against the Owner, which shall constitute an Individual Assessment secured by the Association's lien; (b) suspend the Owner's right to vote and use the Common Areas; and (c) enter upon the Lot without liability for trespass to abate or remove the violation at the Owner's sole expense.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. Declaration Article V, Section 5.01 & Section 5.04 (p. 1): 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 (OTARD Rule)

Statutory Comparison: The FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000) preempts community association restrictions that prohibit, require prior architectural approval for, or impose sub-1-meter (39.37-inch) diameter caps on the installation, maintenance, or use of antennas and satellite dishes 1 meter or less in diameter situated on property within the exclusive use or control of the owner/tenant.

CURRENT WORDING IN DOCUMENT:

[Declaration Article V, Section 5.01 & Section 5.04] Architectural Review Committee (ARC) Jurisdiction and Sole Discretion - No structure, dwelling, fence, wall, mail box, pool, exterior lighting, antennae, satellite dish, or landscaping alteration shall be commenced, erected, or maintained upon any Lot until complete plans and specifications have been submitted to and approved in writing by the Architectural Review Committee (ARC). The ARC may withhold approval for any reason, including purely aesthetic considerations, in its sole and absolute discretion, and neither the ARC nor the Board shall be liable in damages to any Owner submitting plans for approval.

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 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).