

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 6.1 (p. 34): 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:

Required Approval. No structures, including Residences, outbuildings, accessory buildings, tennis courts, swimming pools, antennas (except as otherwise permitted in this Declaration), flag poles (except as otherwise permitted by the Act), fences, walls, exterior lighting, landscaping, or any other improvements shall be constructed, erected, relocated, 29 4929-9357-6800, v.

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).

No Property within the Community shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel or earth.

[Note: This provision has been added pursuant to your request.]

Section 5.24 Use of the Words The Vineyard and The Vineyard Homeowners Association.

No Owner or resident shall use the words The Vineyard or The Vineyard Homeowners Association or the logo of the Community or Association, if any, or any derivative thereof, in connection with any goods, materials or services, the use of which is likely to cause confusion, mistake or deception as to the source or origin of such goods, materials or services, without the prior written consent of the Association.

[Note: This provision has been added and is intended to prevent residents from using the Association or Community name in connection with personal business uses not associated with the operation of the Association or the Community.]

Section 5.25 Street Lighting.

All Lots are subject to and bound by Public Service Company tariffs which are now and may in future be filed with Public Utilities Commission of the State of Colorado relating to street lighting in the Community, together with rates, rules, and regulations therein provided and subject to all future amendments and changes thereto. Owners shall pay as billed a portion of the cost of public street lighting in the Community according to Public Service Company rates, rules, and regulations, including future amendments and changes on file with the Public Utilities Commission of the State of Colorado.

[Note: This provision is similar to Article VII, Section 8 of your current Declaration.]

ARTICLE 6 ARCHITECTURAL REVIEW

ISSUE #1

Section 6.1 Required Approval.

No structures, including Residences, outbuildings, accessory buildings, tennis courts, swimming pools, antennas (except as otherwise permitted in this Declaration), flag poles (except as otherwise permitted by the Act), fences, walls, exterior lighting, landscaping, or any other improvements shall be constructed, erected, relocated,