

Section 1: [Deed Restrictions, Section 1 & Section 8] Single-Family Residential Use Only and Prohibition on Business

1. The property herein described shall be occupied and used for residence purposes only, and not otherwise, and only private dwelling houses designed for the occupancy of not more than one family each, with the necessary garages, shall be erected thereon... 8. No business and no noxious or offensive activities shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood.

MARKUP #1 ->

ISSUE #1

Section 2: [Deed Restrictions, Section 5] Prohibition on Front-Mounted Apparatus or Projections

5. No air conditioning apparatus or unsightly projection shall be attached or affixed to the front of any residence.

Section 3: [Deed Restrictions, Section 11] Vehicle Storage Restriction Incorporating Overland Park Ordinances

11. No vehicle, except 'passenger cars, passenger vans, pickup trucks, and motorcycles' as defined by Overland Park ordinances shall be left or stored on said property, except in an enclosed garage.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. Deed Restrictions, Section 5 (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:

[Deed Restrictions, Section 5] Prohibition on Front-Mounted Apparatus or Projections - 5. No air conditioning apparatus or unsightly projection shall be attached or affixed to the front of any residence.

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).