

Section 1: [Article II, Section 7] Signs

No Owner or builder may place any sign except one that advertises either the Lot or the residence constructed thereon for sale or rent, and no signs for any other purposes shall be displayed on any Lot or on a building or a structure on any Lot. The one sign for advertising for sale or rent shall not be greater in area than nine (9) square feet in total area. All signs in terms of size and general content shall be approved by the Developer (or Homeowners Association after sale of all Lots).

MARKUP #1 ->

ISSUE #1

Section 2: [Article II, Section 6(d) & Article III, Section 1(c)] Antennae and Receivers/Transmitters

[Art. II, Sec. 6(d)]: 'No antennae or other receivers and transmitters may be erected or placed on any Lot unless its design, placement and screening are approved in writing by Developer (or Homeowners Association after sale of all Lots). Developer does not intend to allow antennae, receivers or transmitters that are visible from any street...' [Art. III, Sec. 1(c)]: 'References to "Structure" in this Article shall include, without limitation, any building (including a garage), wall, pool, fountain, fence, antennae (except for standard small television antennae), microwave and other receivers and transmitters (including those currently called "satellite dishes"), structure or other improvements.'

Section 3: [Article IV, Section 7(c)] Denial of All Class A Homeowner Voting Rights Until December 31, 2033

Notwithstanding anything herein to the contrary, Class A members shall not be permitted to exercise any vote until the earlier of the following events, whichever occurs earlier: (i) December 31, 2033; or (ii) When Developer, in its sole discretion, so determines in writing.

Section 4: [Article V, Section 6] Board's Determination Final and Binding

In the event of any dispute or disagreement between any Owners relating to the property subject to this Declaration, or any questions of interpretation or application of the provisions of this Declaration or the Association's Bylaws or Articles of Incorporation, the determination thereof by the Board shall be final and binding on each and all such Owners.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. Article II, Section 6(d) & Article III, Section 1(c) (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:

[Article II, Section 6(d) & Article III, Section 1(c)] Antennae and Receivers/Transmitters - [Art. II, Sec. 6(d)]: 'No antennae or other receivers and transmitters may be erected or placed on any Lot unless its design, placement and screening are approved in writing by Developer (or Homeowners Association after sale of all Lots). Developer does not intend to allow antennae, receivers or transmitters that are visible from any street...' [Art. III, Sec. 1(c)]: 'References to "Structure" in this Article shall include, without limitation, any building (including a garage), wall, pool, fountain, fence, antennae (except for standard small television antennae), microwave and other receivers and transmitters (including those currently called "satellite dishes"), structure or other improvements.'

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).