

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

- e. Paved Areas: All exterior paved areas will be made of one of the following materials.
- (1) Wood decking (rear yards only).
 - (2) Masonry units - such as brick or stone, indicate type. Type must harmonize with existing material' used on house.
 - (3) Concrete, textured concrete - indicate color and pattern.
 - (4) Exposed aggregate: A special concrete finish in which attractive aggregate at the surface are exposed to create interesting and beautiful effects.
 - (5) Combinations of the above.

* % is computed on the available yard area not covered by the originally designed driveway and walk.

If the Association must enter upon a lot to install landscaping on the front and/or side yard property, the above minimum requirements will be met.

F. Mechanical Equipment

- 1. Installation of mechanical equipment, including but not limited to air conditioners, swimming pool, spa equipment, water softeners, waterfall pumps, etc., shall require approval by the Architectural Committee.
- 2. All equipment shall be located as far as possible from neighboring properties and/or all pumps and blowers must be enclosed or buried to mitigate the noise factor.
- 3. Plan Drawings must indicate the location of the equipment and, if exposed to view, the method of screening.
- 4. Pool equipment will be required to conform to all city building codes and health ordinances.

G. Drainage, Fill and Grading

- 1. The original course of surface water flow shall not be disturbed or altered as to adversely affect neighboring property or his own.
- 2. Gutters and downspouts or scuppers shall be primed and painted to match adjacent surface colors.
- 3. If any grading is undertaken, all excess dirt must be disposed of in a lawful manner and cannot be dumped on any property without the owner's written permission, a copy of which shall be attached to all homeowner plan submittals. No material may be dumped on any side or rear yard slope.

Sec. I (p. 8): 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:

Antennas: Antenna of any description installed outside of dwelling or garage are prohibited. I. Flagpoles: Flagpole installation requires prior approval by the Architectural Committee.

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).

ISSUE #1

Antennas: Antenna of any description installed outside of dwelling or garage are **prohibited**.

I. Flagpoles: Flagpole installation requires prior approval by the Architectural Committee.