

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Part C. ARCHITECTURAL CONTROL

1. Approvals Required.

a. No building, fence, wall, retaining wall, outbuilding, structure, improvement or ornamental addition, including changes that significantly alter the character or look of the home, shall be placed, erected, altered or maintained upon any Home Site, or existing property, unless and until completed plans and specifications therefore and a plot plan showing the location(s) thereof, shall have been first approved by the Architectural Control Committee, hereinafter described. These documents shall be directed to the President of the Silverado Property Owners Association for consideration.

b. Approval by the Architectural Control Committee is required before the County will process the request or issue a use permit for construction, erection, alteration or improvement of a structure on the Home Site/home within the Silverado Development Area.
2. Approval Withheld.

a. Approval of a plan or project by the Architectural Control Committee may be withheld on any of the following grounds:

b. The proposed construction, improvement or alteration submitted would not comply with any of the specific covenants, conditions, and restrictions listed herein; or

c. The proposed construction, improvement or alteration is unsatisfactory in location with respect to the Home Site/home in finished design or material, in proportion, in architectural style or appropriateness; or

d. The proposed construction, improvement or alteration would not be in harmony of exterior design or appearance with other improvements located within the tract or in the general area of with the topography or grade.
3. Future Rights.

Approval of any specific plans and/or specifications shall not be deemed to waive the right of the Architectural Control Committee to object to same or similar plans or specification or any feature or element embodied therein, if and when similar plans and/or specifications may be submitted for approval for use on another Home Site/home.

Part D. ANTENNAS, AERIALS, SOLAR PANELS AND SATELLITE DISHES

1. The Architectural Guidelines of the Silverado Community CC&Rs permit, and encourage, the use of solar installations in accordance with the State of California Solar Regulations AB2473. Residents are required to install solar arrays on their rooftops, trellises, and/or arbors, and not as large ground-based arrays more appropriate to industrial, commercial or agricultural sites. The Architectural Guidelines require a review and approval to ensure the reasonable use of nominal screening or landscaping to cover any solar panel support framing or piping if it will detract from the installation’s overall appearance. Such screening or landscaping shall not decrease the thermal efficiency or increase the maintenance of the equipment.
2. To ensure adequate aesthetic controls and to maintain the general attractive appearance of the Silverado Development Area, no owner, resident, or lessee shall place or maintain any objects, such as towers, satellite dishes, solar panels or radio or television antennas, on the

Sec. 2 (p. 4): 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:

To ensure adequate aesthetic controls and to maintain the general attractive appearance of the Silverado Development Area, no owner, resident, or lessee shall place or maintain any objects, such as towers, satellite dishes, solar panels or radio or television antennas, on the

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