

ISSUE #1

- MARKUP #1 ->

A. DBS antennas that are one (1) meter or less in diameter may be installed. Antennas larger than one (1) meter are prohibited.

B. MDS antennas one (1) meter or less in diameter may be installed. MDS Antennas larger than one (1) meter are prohibited.

C. Antennas designed to receive television broadcast signals, regardless of size, may be installed.

D. Installation of transmission-only antennas are prohibited unless approved by the Board.

E. All antennas not covered by the FCC rule are prohibited.

Section 11.4 **NUMBER OF ANTENNAS.** No more than one (1) antenna of each provider may be installed by an Owner.

Section 11.5 **LOCATION.**

- A. Antennas shall be installed solely in the Unit and/or in the exclusive use Common Area balcony or patio.
- B. If acceptable quality signals may be received by placing antennas inside a dwelling, without unreasonable delay or unreasonable cost increase, then outdoor installation will be prohibited.
- C. Antennas shall not encroach upon any Common Area elements (including but not limited to the roof or any exterior walls), any other Owner’s individual Unit or exclusive use Common Area, or the air space of another Owner’s exclusive use Common Area.
- D. Antennas shall be located on a place shielded from view from the street or from other Units to the maximum extent possible; provided, however, that nothing in this rule would require installation in a location from which an acceptable quality signal may not be received. However, this section does not permit installation on the Common Area (including but not limited to the roof or any exterior walls), even if an acceptable quality signal may not be received from an individually-owned Unit or exclusive use Common Area.

Section 11.6 **INSTALLATION.**

- A. Antennas shall be no larger nor installed than is absolutely necessary for reception of an acceptable-quality signal.
- B. All installations shall be completed so that they do not damage the Common Area, exclusive use common area or individual Units of any other Owner, or void any warranties of the Association or other Owners, or in any way impair the integrity of buildings located on the Association’s premises.
- C. Antennas must be secured so that they do not jeopardize the soundness or safety of any structure, including another Owner’s structure or the safety of any person at or near antennas, including damage from wind velocity.
- D. There shall be no penetrations of the exteriors of the buildings housing the Units.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 11.3 (p. 31): 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:

ANTENNA SIZE AND TYPE. - 29 - A. DBS antennas that are one (1) meter or less in diameter may be installed. Antennas larger than one (1) meter are prohibited. B. MDS antennas one (1) meter or less in diameter may be installed. MDS Antennas larger than one (1) meter are prohibited.

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).