



MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. III (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:

or transmitter, or other antenna which street or adjoining property is permitted unless specific approval for such/is obtained in writing from the Association.

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).

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the main residence, they may be included in the calculation of the square foot measurement, but only to the extent of seventy-five percent (75%) of the square footage of such areas.

C. No roof for a building on a single family lot, except porch or garage roofs, shall be built with a center pitch less than three (3) feet high to twelve (12) feet horizontal.

D. No existing building or structure shall be moved onto any single family lot.

E. Garages: All garages on single family lots shall be attached to the residence which they are designed to serve and shall be no larger than is sufficient to house three (3) vehicles.

F. Antennas: No television, radio receiver or transmitter, or other antenna which is visible from the street or adjoining property is permitted unless specific approval for such is obtained in writing from the Association.

2. Landscaping.

Except in areas described above as Common Areas, no weeds, high grass, underbrush or other unsightly growths shall be permitted to grow or remain upon any part of the premises. If for any reason an Owner permits such weeds, high grass, underbrush or other unsightly growths and fails to correct same after five (5) days notice by the Association, then the Association shall have the right to enter upon the premises and make such corrections and charge the Owner for the cost of the corrections. Said charge, until paid, shall be a lien against the lot of the Owner responsible for the payment.

All areas within a single family lot or a multi-family lot, not covered by structures, walkways or paved parking facilities, shall be maintained as a lawn or as a landscaped area to the pavement area of any abutting street or lake. Such lawns shall be irrigated with an underground irrigation system. No stone, gravel or paving of any type shall be used as a lawn.

3. Plan Approval.

The construction plans for any structure to be built on any single family lot must be approved by the Association prior to the commencement of such construction. A complete set of construction prints, including a plot plan showing the location of the house on the single family lot, shall be submitted to the Association for approval. The Association shall approve or disapprove such plans within fifteen (15) days of receipt of them. Any disapproval by the Association shall be only on the basis of preventing the erection of structures having similar exterior design or elevation in proximity to an existing structure or to prevent a violation of restrictions contained in this instrument.

The failure of the Association to disapprove plans submitted within the fifteen (15) day period shall constitute approval of such plans except as to violations of restrictions contained in this instrument.