

and aesthetic beauty. It is the intent of this Paragraph that the party exercising architectural control shall have the right to control all architectural aspects of any improvements constructed on any property including, but not limited to, height, site planning, setback requirements, open space, exterior design, color schemes, landscaping, waterscaping, and aesthetic criteria, to the end that the entire SUBJECT PROPERTY may be developed as a planned high-quality residential community with each portion' of the SUBJECT PROPERTY complementing the other portions.

9.02 Party Exercising Architectural Control. DECLARANT shall have the right to exercise such architectural control so long as it owns any property, or holds a mortgage encumbering any property other than a LOT. Thereafter, the ASSOCIATION shall exercise such architectural control, provided, however, that at any time DECLARANT shall have the right to relinquish architectural control over all or any portion of the SUBJECT PROPERTY, by written notice to the ASSOCIATION. So long as DECLARANT has the right to exercise architectural control, and has not voluntarily relinquished such control to the ASSOCIATION, the ASSOCIATION shall not have the right to exercise architectural control and said right shall be exclusively vested in DECLARANT.

9.03 OWNER to Obtain Approval. Each OWNER, by accepting title to any Lot or property with ~~the SUBJECT PROPERTY, covenants and agrees that no building, fence, wall, tennis court, swimming pool, patio area, driveway, landscaping, antenna, sign, mailbox, or other structure or improvement, or any change or alteration thereto other than normal maintenance and repair which does not significantly alter or change the original structural or exterior condition and color of same, shall be placed, constructed or made upon any~~ property, nor shall the elevation of any property be changed, nor shall any lake or canal be filled or the boundaries of same altered, unless and until plans and specifications therefor have been submitted to the party then exercising architectural control and the approval of same has been obtained as provided below. Said plans and specifications to be submitted shall fully describe in detail the improvements to be made including, but not limited to, all materials, equipment, and colors to be used. In the event the party exercising architectural control deems such plans and specifications insufficient, said party may require the plans and specifications to be further detailed.

9.04 Approval of Plans and Specifications. The party exercising architectural control shall have the right to approve or disapprove the plans and specifications on any grounds. Approval of any new plans and specifications shall not be unreasonably withheld and architectural control shall not be applied in a discriminatory manner or to unreasonably prohibit the reasonable development of any property. Notwithstanding the foregoing, the party exercising architectural control shall have complete discretion to approve or disapprove any plans and specifications on the grounds of exterior aesthetics. The party exercising architectural control shall approve or disapprove any plans or specifications within thirty (30) days after they have been submitted for approval, by written notice to the PERSON submitting same, and in the event the party exercising architectural control fails to disapprove any plans or specifications within such thirty (30) day period, they shall be deemed to have been approved and upon request the party exercising architectural control shall give written notice of such approval. Any approval of plans or specifications which is conditioned upon changes being made shall be deemed a disapproval until such time as the PERSON submitting the plans and specifications agrees to the changes or revises the plans and specifications to reflect the changes requested. In the event the party exercising architectural control approves, or is deemed to have approved, any plans or specifications, the PERSON submitting the plans and specifications may proceed to make improvements or repairs in strict conformance with the plans and specifications submitted or approved or deemed to have been approved.

9.05 Remedy for Violations. In the event this Article is violated in that any construction, improvement, change, or alteration is made without first obtaining the approval of the party exercising architectural control, or: is made prior to the time approval is presumed as set forth herein, the party exercising

[Return to Top of Document](#)

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 9.03 (p. 17): 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:

patio area, driveway, landscaping, antenna, sign, mailbox, or other structure or improvement, or any change or alteration thereto other than normal maintenance and repair which does not significantly alter or change 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