

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 3.11 (p. 12): 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" No antenna, dish or other similar electronic or communication device that is visible from the street or adjoining property is permitted unless approved in writing 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

landscape irrigation systems which are designed to irrigate the entire landscape portion of the Plot shall be installed.

(b) "Xeriscaping" or "Florida Friendly landscaping" shall be permitted around the sides and rear of the property but normally no closer than 30 feet of the nearest sidewalk or street. Such landscaping shall adhere to the principles described in the latest edition of "A Guide to Florida Friendly Landscaping: Florida Yards and Neighborhood Handbook", and shall be well maintained.

3.09 "Garage Doors" Operable doors shall be provided for all garages. Garage doors shall be closed except when the garage is actively in use.

3.10 "Driveways" Driveways and off-street parking areas shall be paved or gravel surfaced. ~~All driveway and off-street parking area surfaces must be approved by the Architectural Committee prior to installation or alteration. Color and surface composition/content must be pre-approved.~~

3.11 "Antennas" No antenna, dish or other similar electronic or communication device that is visible from the street or adjoining property is permitted unless approved in writing by the Architectural Committee.

3.12 "Mailbox/Light Post Assembly"

- (a) The Association's required mailbox/light post assembly shall be set by the Board.
- (b) Each single family dwelling unit shall be equipped with the approved mailbox/light post assembly that is operable and aesthetically maintained.
- (c) The light fixture shall be illuminated from dusk to dawn.

3.13 "Enclosures"

- (a) Plans for any enclosure must be approved by the Architectural Committee prior to commencement of work.
- (b) Homeowners may construct one or more Enclosures to mask permanent and temporary items from visibility from both the street and adjacent property.
- (c) Enclosures shall be no more than six feet high and shall be comprised of vegetation or of material approved by the Architectural Committee.

3.14 "Fences" No fence may be placed on any part of a lot without approval of the Architectural Committee and the Board.