

ARB Rules and Design Guidelines for Madeira at St. Augustine

MARKUP #1 ->

Pools not contained within a screened enclosure must be fenced. All pool fences must include perimeter landscaping, located on the exterior of the fence, in order to provide natural screening from neighboring properties. All screening landscaping must be maintained in perpetuity by current and by all future Owners of the property. All fences shall be maintained to provide the protection of restricted and secure access to the pool area.

All pool equipment shall be enclosed by a 42” high masonry wall and landscaping that provides no less than 85% opacity. The service opening shall not face the street.

Applicants must comply with all relevant governmental requirements. In particular, pools located in the following phases shall be required to follow the FDEP institutional control - pool protocol installation guidelines.

- Phase 2A Units I & II
- Phase 1C Units I & II
- Phase 2C Units I & II

4.18. Recreational Structures

Any platform, doghouse, tennis court, playhouse or structure of a similar kind or nature (each a “Recreational Structure”) must have approval of the ARB prior to construction or installation. All Recreational Structures (excluding basketball backboards) shall be located at the rear of the dwelling, or on the inside portion of a corner lot within the setback lines and shall be constructed so as to not adversely affect the adjacent lots or the use thereof. The ARB shall review the height of such structures and their other attributes to assure the privacy of neighboring homeowners.

4.19. Basketball Backboards

No basketball backboards may be temporarily or permanently installed adjacent to the street or on any cul-de-sac. All permanently affixed basketball backboards / hoops must have prior approval of the ARB.

4.20. Cable TV and Telephone Communication

Each Home constructed at Madeira is required to be pre-wired for cable TV and telephone service. This shall be the homebuilder’s responsibility. The company to provide these services shall be selected by the Developer, its successors and assignees, at its own discretion.

ISSUE #1

4.21. Satellite Dishes & Antennas

Only small satellite dishes, not exceeding 24 inches (24”) in diameter, are allowed in Madeira. The location of the same must be in an inconspicuous place shielded from view from the street and adjoining properties to the maximum extent possible. The type of dish and location will be reviewed by the ARB.

Television antennas may not be visible from the exterior of a house, the street or adjoining properties, provided a quality signal can be received from inside a house. If it can be demonstrated that a quality signal is not achievable from inside a house, one (1) television antenna is allowed in an inconspicuous location.

Other types of antennas are not allowed without the prior written approval of the ARB.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 4.21 (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:
Satellite Dishes & Antennas Only small satellite dishes, not exceeding 24 inches (24”) in diameter, are allowed in Madeira. The location of the same must be in an inconspicuous place shielded from view from the street and adjoining properties to the maximum extent possible.

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).