

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 14.17 (p. 11): 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:

No television, radio or other electronic antenna, mast, dish, disk or other similar device for sending or receiving television, radio, or other similar signals may be erected, constructed, placed or permitted to remain upon any lot, parcel or sub-association property, or upon any building located thereon except in conformance with the condition of any approval granted by the TMA-ARC and such uniform rules and standards as may be established by the Board.

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).

1.6 Replacement Structures, Additions or Changes to Existing Homes

- ISSUE #1
- 1.6.1 Replacement housing, including lanai/pool cages, as a result of fire or natural disaster must occupy the same footprint as the original house. Upward expansion of housing is limited to height of surrounding buildings, cannot exceed two stories and must not deviate from similar designs. All housing subject to the provisions of this document must be stucco and built with similar look and architecture. Additions to housing are required to follow the same rules.
- 1.6.2 Changes to windows or exterior doors require TMA-ARC approval.
- 1.6.3 ~~Changes or additions to exterior gutters or downspouts require TMA-ARC approval.~~

1.7 Antennas and Masts

- 1.7.1 Master Association Article 14.17: No television, radio or other electronic antenna, mast, dish, disk or other similar device for sending or receiving television, radio, or other similar signals may be erected, constructed, placed or permitted to remain upon any lot, parcel or sub-association property, or upon any building located thereon except in conformance with the condition of any approval granted by the TMA-ARC and such uniform rules and standards as may be established by the Board. ~~Any such antennas or other device that may be maintained in conformity with such consent and approvals and rules or inside a dwelling or other structure is not permitted if it sends, contributes to or creates interference on any radio or television reception or interferes with the operation of other visual or sound equipment located in any Improvements within the Tara communities. The homeowner is required to place this equipment out of public view from the street, with landscape screening, if necessary, to camouflage the equipment. TMA-ARC approval is required for any attached dish.~~

The Federal Communication Commission (FCC) implementing the Telecommunication Act of 1996, prohibited restrictions that hampered consumer's use of television antennas, small satellite dishes, and wireless cable antennas, as outlined in the Tara Master Association Article 14.17. November 14, 1998, the FCC amended the rule, preserving property rights of single family dwellings but restricting multi-type units due to roofs and common areas.

Presidents and/or Board Members of multi-type living units where common roofs and grounds are involved in placement of satellite dishes and other over-the-air reception devices must contact the TMA-ARC before granting approval.

- 1.7.2 The TMA-ARC reserves the right to regulate such items to the fullest extent permitted by applicable laws or regulations.

1.8 Condo Associations

- 1.8.1 Condo Association ARCs must contact the TMA-ARC when their decisions will affect the buildings, landscaping, and other categories under Index 1-4 when such actions will change the external look of the condos from the view of the Tara communities. Their requests are to be in writing using the form provided in Section 6 of this Manual.