

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 6.2. (p. 4): 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:

system antenna with the exception of those permitted by Federal law regulations.
(4) any mechanical, electrical, or plumbing equipment or systems, or any liquid or gas storage facilities including, but not limited to swimming pool or whirlpool bath pumps, valves, filters, pipes and tanks for heating oil or bottled gas unless such equipment, systems or storage facilities are installed entirely below grade or are attractively landscaped from the view of nearby Dwelling Units in the sole judgment of the Board of Directors;
(5) any improvement to the front and/or side of a lot.

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

(c) Prohibited Modifications. In no instance shall construction or installation of the following improvements be allowed:

(1) any flat roofed structure provided however this provision shall not apply to rear screen enclosures for patios and swimming pools;

(2) a structure whose exterior is composed largely of metal;

(3) ~~any exposed outdoor television, radio or other communication or reception~~ system antenna with the exception of those permitted by Federal law regulations.

(4) any mechanical, electrical, or plumbing equipment or systems, or any liquid or gas storage facilities including, but not limited to swimming pool or whirlpool bath pumps, valves, filters, pipes and tanks for heating oil or bottled gas unless such equipment, systems or storage facilities are installed entirely below grade or are attractively landscaped from the view of nearby Dwelling Units in the sole judgment of the Board of Directors;

(5) any improvement to the front and/or side of a lot. With the exception of ~~the limited usage of low voltage/wattage outdoor lighting for which prior written~~ approval must be obtained from the association.

(6) ~~Any attachments to the exterior of a dwelling, with the exception of roll down aluminum storm shutters, for which prior written approval must be obtained from the association. The Association will allow the ARB, with the approval of the PCC Board of Directors, to approve any attachments to the exterior of the Dwelling Unit.~~

(7) No fences or walls shall be built or maintained on any lot.

(8) ~~The only improvement allowed in a driveway and/or walkway to the dwelling will be by the staining (not painting) with a concrete sand color. Prior written approval must be obtained. The Association will allow, at the owner's choice, improvements to a driveway and/or walkway of their Dwelling Unit as follows:~~

1. The Driveway and/or walkway may only be "stained" (not painted) with a concrete sand color. The color will be approved by the Board. Prior written approval must be obtained (See ARB Guidelines for details);

2. If the Owner decides, the improvement to the driveway and/or walkway can be the installation of Pavers. The color and/or style of the pavers will be approved by the Board and incorporated into the ARB Guidelines. There will be ONLY one color/style for Phase I (Red Tile Roof Homes) and one color/style for Phase II (White Tile Roof Homes). The approved color will be listed in the ARB Guidelines. In addition, if the Owner's driveway crosses the county sidewalk, they must obtain the required permit from the county, at their expense, to "pave" over the sidewalk.