

ISSUE #1

Sec. 11.14. (p. 26): 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 and. Satellite Dishes. As provided below or otherwise approved by the Board of Directors, or as may be permitted under law, no antenna or other device for the transmission or reception of television signals, radio signals or any form.

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).

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or maintained upon any Lot or portion of the Community, nor shall any clothing, rugs or other items be hung on any railing, fence, hedge or wall on a Lot or on any portion of the Community.

Section 11.14. Antennas and Satellite Dishes. As provided below or otherwise approved by the Board of Directors, or as may be permitted under law, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors in any portion of the Community. Direct broadcast satellite ("DBS") antennas and multi-channel multi-point distribution services ("MMDS") one meter or less in diameter and television broadcast service antennas may be installed in accordance with rules and regulations of the Federal Communication Commission ("FCC") and the Association. Any such devices shall be installed in the least conspicuous location available on the Lot that permits reception of an acceptable quality signal. All such devices shall be promptly removed when no longer functioning or used.

Section 11.15. Subdivision of Lots. No Lot shall be divided or subdivided into a smaller Lot, nor shall any portion of a Lot be separately sold, leased, rented or otherwise transferred.

Section 11.16. No Hazardous Materials. Nothing shall be done or kept on any Lot or in the Common Property which will increase the rate of insurance on any portion of the Common Property, without the prior written consent of the Board of Directors.

Section 11.17. Prohibition of Damage, Nuisance and Noise. No noxious or offensive activity shall be maintained or carried on, on any Lot or in the Common Property, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to any other Owner or occupant. No Owner shall make or permit any disturbing noise on the Property, or any portion thereof, by himself, his family, servants, guests, tenants or lessees, nor do or permit anything by any of such persons that will interfere with the rights, comfort or convenience of other Owners. The intention of this provision is to grant the Association and aggrieved Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Community.

However, nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder, if it elects to do so in its sole discretion. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association for failure to enforce the provisions hereof.

Section 11.18. Abandoned Personal Property. Personal property, except for personal property owned by the Association, is strictly prohibited from being stored, kept, or allowed to remain for a period of more than forty-eight (48) hours upon any portion of the Common Property unless approved by the Board of Directors. If the Board or its designee, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common in violation of this Section, then the Board may remove and either discard or store the personal property in a location which the Board may determine. If personal property is removed in accordance with this Article, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

Section 11.19. Firearms. The use, display, or discharge of firearms on any portion of the Common Property is prohibited, except to the extent Georgia law expressly allows such and except with prior approval of the Association; provided, however, that the display of lawful firearms in the Community is permitted by law