

ISSUE #1

10. ANTENNAS

MARKUP #1 ->

Exterior antennas, aerials, or other apparatus for transmission or receiving of television, radio, satellite, or other signals of any kind shall be placed to the rear of the unit. Not Withstanding the above, satellite dishes not exceeding thirty-six (36") inches in diameter may be erected on a Unit, provided the satellite dish is not visible from any public right-of-way.

A. Under this provision it is acceptable for homeowners to have a Cable/Satellite dish on their house. There is no need for an MRF for the installation of a satellite dish. Installation must conform to FCC Guidelines.

11. FENCING - Yard, Pool, Hot Tub, Spa, Water Feature or Ponds

All fencing must be approved by the Architectural Control Committee. However, no chain link fences of any nature or kind shall be permitted within the Community without ACC approval (excepting any such fence installed by the Declarant around a water retention/detention basin).

- A. Approval of Fences
- 1) An approved MRF is required for all fencing. No fence shall be constructed, installed or maintained in the subdivision without prior written approval.
 - 2) Fence styles and materials shall comply with the following as applicable:
- B. Fences shall be limited to a maximum height of six feet (except as provided herein); fence posts, columns, or decorative elements may be up to 12 inches higher than the maximum fence height.
- C. Privacy structures and courtyard enclosures shall be limited to a maximum height of six feet and must be constructed, installed and maintained in such a manner that they are architecturally compatible in terms of design, materials and color with the main residential structure on the lot and comply with all front, side, and rear building set back lines.
- D. With respect to lots, which have a rear or sideline fronting on a street or a greenbelt, adjacent to a street or greenbelt, may be a decorative wood fence or other material of solid or open design to provide for privacy.
- E. Notwithstanding the foregoing, in no event shall such privacy structures, courtyard enclosures or fences restrict the view of significant vistas such as a pond, or lake from adjacent dwellings.
- F. At the discretion of the ACC, additional planting may be required as a condition to the installation of fences with respect to lot lines adjacent to streets or greenbelts.
- G. There are no setbacks for privacy fences, and they should be installed on the property line.
- 1) Chain link fences are not allowed without ACC approval.
 - 3) The portion of the fence facing the front lot line, or any street shall be compatible with the main residential structure in terms of design, color, and materials.
 - 4) All fencing must be maintained for reasonable appearance to show no signs of neglect.
 - 5) No fencing will be permitted in the front of the house.
 - 6) Must have all city permits and comply with their ordinances.
- H. Pool, Spa, Hot Tub, and Bodies of Water (Pond) Fencing

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 8 (p. 9): 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:

of 17 09 10. ANTENNAS Exterior antennas, aerials, or other apparatus for transmission or receiving of television, radio, satellite, or other signals of any kind shall be placed to the rear of the unit. Not Withstanding the above, satellite dishes not exceeding thirty-six (36") inches in diameter may be erected on a Unit, provided the satellite dish is not visible from any public right-of-way.

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).