

Section 8.03: **Dwelling Interiors**

Except as otherwise provided in this Declaration, and the provisions of Section 8.02 notwithstanding, any Owner may make additions, alterations or improvements within his or her Dwelling (except for those portions of the Dwelling that are visible from outside of the Dwelling) without the prior written approval of the Board. Provided, however, that such Owner shall be responsible for any damage to other Dwelling, Lots and/or the Common Area occurring as a result of such additions, alterations or improvements.

ISSUE #1

Section 8.04: **Satellite Dishes and Antennas**

No radio or television antennas or satellite dishes shall be affixed or placed upon or on any portion of the Common Area without the prior written approval of the Board. The placement, installation and use of antennas and satellite dishes on ~~or upon the Dwellings and Lots by Owners shall be subject to all applicable~~ provisions of the rules and regulations adopted by the Board. Notwithstanding anything contained herein to the contrary, the installation of any satellite dish or antenna shall be at the Owner's sole risk and sole cost and expense and, in the event the installation of any satellite dish or antenna causes any damage or destruction to any Dwelling or other improvement on any Lot or the Common Area or voids or impairs any warranty which runs for the benefit of the Association or any Owner, the Owner installing and owning the satellite dish or antenna shall be liable and responsible for and shall pay for any and all costs, expenses, fees and damages and repair any and all damage or destruction created thereby, including reasonable attorneys' fees and court costs. This provision, however, is not intended to interfere with the Owners' rights to adequate reception under the 1996 Telecommunications Act or other present, or future, federal or Illinois statutes.

Section 8.05: **Disclaimer**

No approval of an Owner's submitted plans and specifications for additions, alterations or improvements to the Owner's Dwelling and/or Lot granted by the Board under this Article or other provisions of this Declaration shall be construed as representing or implying that such plans and specifications shall, if followed, result in properly designed Improvements. Such approvals shall in no event be construed as representing or guaranteeing that any Dwelling or other improvement built in accordance therewith shall be built in a good and workmanlike manner. Neither the Association nor the Board shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved pursuant to the terms of this Article, any loss or damages to any Person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the non-compliance of such plans or specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 8.04 (p. 23): 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 and Antennas No radio or television antennas or satellite dishes shall be affixed or placed upon or on any portion of the Common Area without the prior written approval of 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).