

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. SATELLITE DISHES (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:

SATELLITE DISHES Free-standing satellite dishes are not acceptable. All other dishes should be sized and located so as to reduce visibility by neighbors and from public ways. Satellite dishes are subject to review and approval by the Committee.

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).

9. PAINT – COLORS

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Paint and wood stain colors for structures, trim, shutters, doors and all painted elements must be approved by the Committee. Color samples, photographs, and a description of where the colors will be applied must be submitted along with the application. Traditional historic and period appropriate colors and color combinations are required.

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11. WALKS & DRIVEWAYS

Concrete sidewalks must be exposed aggregate similar to traditional Guilford standard. Other materials such as brick masonry or bluestone may be permitted for walkways between houses and sidewalks. Driveways are recommended to be concrete and must be of the same exposed Guilford standard aggregate finish. Alternate driveway paving materials must be specifically approved by the Committee. New curbing shall match existing Guilford curb where installed.

12. POOLS & HOT TUBS

- 1) In general, pools and hot tubs shall be located and screened so as to not be visible from the public way or from the ground level of adjacent properties. The pool plan and related landscape plan must be reviewed and approved by the Committee.
- 2) Each pool must be surrounded by a fence per code and be at least three feet in height and no higher than forty-eight (48) inches. Fencing must be approved by the Committee as part of the pool plan.
- 3) Gates of such fences must be self-closing and have locks that cannot be opened by small children.
- 4) No pool or hot tub may be in the front yard of any house. In the case of a house at an intersection of streets, the pool must be located in the rear yard and may not extend beyond the lines of the dwelling facing the streets forming the intersection.
- 5) No pool or hot tub may at any point be closer to a contiguous neighbor's lot line than fifteen feet, or closer to the edge of a street than thirty feet.
- 6) No more than five percent of the total lot may be used for any swimming pool.
- 7) Each pool must be a permanent structure constructed so that no part of it is above grade.
- 8) No lights may be placed in the area other than submerged wall lights or small, shielded lights which may not be over three feet from the ground.
- 9) No inflatable pool cover or similar device will be allowed.