

ISSUE #1

MARKUP #1 ->

- (a) No building, fence, wall, deck, exterior antenna, or other structure, building or improvement shall be erected upon the property, nor shall any exterior addition to or change or alteration therein be made (including change in color) until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography, and as to compliance with the provisions of this Declaration, by an Architectural Committee composed of three (3) or more representatives appointed by the Board. The Architectural Committee may promulgate standards for homes in the subdivision.
- (b) Upon the receipt of any request for change, the Architectural Committee has two weeks within which to notify the homeowner by telephone that the request has been received. If the homeowner does not hear from the Architectural Committee within two weeks stating that the request has been received (and is being reviewed) then the homeowner must assume that the request has not been received by the Architectural Committee. It is then the homeowner's responsibility to assure that the request for change does reach the Architectural Committee. The request may be submitted by mail or hand delivered to a member of the Architectural Committee.
- (c) After having confirmed by telephone that a request for change has been received, in the event the Architectural Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Design approval by the Architectural Committee shall in no way be construed as to pass judgment on the correctness of the location, structural design, suitability of water flow or drainage, location of utilities, or other qualities of the item being reviewed. Any exterior addition to or change or alteration made without application having first been made and approval obtained as provided above may be deemed to be in violation of this covenant and the addition, change or alteration may be required to be restored to the original condition at the Owner's cost and expense. In any event, no such exterior addition to or change or alteration shall be made without approvals and permits obtained by the Owner from the applicable public authorities or agencies.

Section 3. Initiation and Completion of Approved Changes

Construction or alterations in accordance with plans and specifications approved by the Architectural Committee shall be commenced within six (6) months following the date which they were approved by the Architectural Committee and shall be substantially completed within twelve (12) months following the date of commencement. In the event construction is not commenced within the time frame specified, then approval of the plans and specifications by the Architectural Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no substantial deviations from plans and specifications approved by the Architectural Committee without any prior consent in writing of the Architectural Committee.

Section 4. Certificate of Compliance

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 2. (p. 18): 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:

Architectural Change Approval
(a) No building, fence, wall, deck, exterior antenna, or other structure, building or improvement shall be erected upon the property, nor shall any exterior addition to or change or alteration therein be made (including change in color) until the plans and specifications showing the

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).