

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 6. (p. 13): 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:

No television satellite receiver ("dish") in excess of three (3) feet in diameter shall be placed outside of any Dwelling.
(l) No solar panels or collectors extending more than twelve (12) inches above the finished grade of the roof shall be placed upon any Dwelling.

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).

(j) No Lot shall be used as a dumping ground for rubbish, trash, garbage, or other waste. All rubbish, trash, garbage, or other waste shall be kept only in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All rubbish, trash, garbage, or other waste receptacles shall be kept and stored in accordance with the City Code.

(k) No television satellite receiver ("dish") in excess of three (3) feet in diameter shall be placed outside of any Dwelling.

(l) No solar panels or collectors extending more than twelve (12) inches above the finished grade of the roof shall be placed upon any Dwelling. Solar panels must be placed on the rear portion of the roof of a Dwelling that faces and slants away from the street.

(m) No antenna extending more than ten (10) feet above the finished grade of the roof shall be placed upon or about any Dwelling.

(n) No metal storage building shall be erected, placed or suffered to remain upon any Lot. Any storage buildings erected on a Lot must be constructed of natural materials of like style to the existing Dwelling. Plans for any such storage buildings must be submitted to, and approved by, the Board's Architectural Review Committee prior to installation of such building.

(o) No radio, television or unreasonably loud speaker or amplifier that can be seen or heard in a manner which unreasonably annoys, disrupts, or disturbs other Owners, Permittees, or other Persons on or near the Development Property shall not be placed or permitted on any Lot.

ARTICLE 7.

MAINTENANCE

7.1 Maintenance Obligations of Owners.

(a) Each Owner shall, at its sole cost and expense, perform or cause to be performed all Maintenance (as hereinafter defined) of all Improvements and Common Areas on its Lot (including the exterior of all buildings and the landscaping) in good order, condition and repair and in accordance with [Code of Regs, this Declaration, community standards, etc.].

(b) For purposes of this Article 7, the term "Maintenance" (and its correlative term, "Maintain") means to keep all Common Area and Improvements at all times in good order, condition and state of repair in accordance with standards of [redacted]. Without limiting the generality of the foregoing, each Owner in the performance of such Maintenance shall observe at least the following standards:

(i) Maintain (including the removal of snow and ice), repair and replace the surface of all ~~Parking Areas, driveways, roadways~~ and sidewalks;

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