

ARTICLE VI
ARCHITECTURAL COMMITTEE

6.1 Organization. There shall be an Architectural Committee of the Association consisting of not less than three (3) and not more than five (5) persons. There shall also be one alternate member who may act as substitute on the Architectural Committee in the event of absence or disability of any member of the Architectural Committee.

6.2 Designation of Members and Term of Office. The initial members of the Architectural Committee shall be appointed by Declarant acting as a Director of the Association, prior to the conveyance of the first Lot to a Public Purchaser. Declarant shall designate at least one member to serve a term of one (1) year, one member to serve a term of two (2) years and one member to serve a term of three (3) years from the date of appointment. The alternate member shall serve a term of three (3) years. Each of said members shall serve the length of said terms unless they have resigned or have been removed from office. Thereafter, the term of all Architectural Committee members appointed shall be three (3) years. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have been expired may be reappointed; however, no person shall serve as a member of the Architectural Committee, either regular or alternate, for a period in excess of six (6) years in any ten (10) year period. Members of the Architectural Committee shall, after the initial appointment by Declarant, be elected by the Board of Directors of the Association.

6.3 Resignations. Any member or alternate member of the Architectural Committee may at any time resign from the Architectural Committee upon written notice delivered to Declarant its successors or assigns.

6.4 Vacancies. Vacancies on the Architectural Committee, however caused, shall be filled by the Board of Directors of the Association.

6.5 Duties. It shall be the duty of the Architectural Committee to consider and act upon proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Committee Rules, to perform other duties delegated to it by the Board of Directors of the Association, and to carry out all other duties imposed upon it by this Declaration.

6.6 Meetings. The Architectural Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a simple majority of the members of the Architectural Committee shall constitute an act by the Architectural Committee unless the unanimous decision of its members is otherwise required by this Declaration. The Architectural Committee shall keep and maintain a record of all actions taken by it at such meetings or otherwise. The Architectural Committee and its members shall be entitled to reimbursement from the Association for reasonable out-of-pocket expenses incurred by them in the performance of any Architectural Committee function.

6.7 Architectural Committee Rules. The Architectural Committee may, from time to time and in its sole discretion, adopt, amend and repeal, by unanimous vote, the Architectural Committee Rules. The Architectural Committee Rules shall interpret and implement the provisions hereof by setting forth the standards and procedures for Architectural Committee review and guidelines for the architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 4.32 (p. 25): 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:

Antennae, Dishes, etc. Without prior written approval and the authorization of the Architectural Committee no exterior television or radio antenna, dish or other similar device may be erected, placed, allowed or maintained upon any portion of the Property or Improvements to be located upon the Property nor upon any structure situated upon the Property.

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).

ISSUE #1