

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. NO ARC APPROVAL NEEDED FOR UNDERGROUND (p. 11): 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 x X x x A24 Signs A3 x x A1, A11 A22 x x A22 x A25 A26
Auxiliary/Emergency Power Generators and Windmills Swimming Pools and Exercise
Pools/swim spas and Hot Tubs A27

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

A16	Irrigation systems	NO ARC APPROVAL NEEDED FOR UNDERGROUND					
A17	Landscaping, Maintenance, Renovations, & Gardens	A22	X		X	X	
A18	Mailboxes	App C					
A19	Patios and Walkways		X	X	X	X	X
A20	Play Equipment	A1	X	X	X	X	
A21	Utility Service Area	A11, A25	X		X	X	
A22	Resource Protection Area		X		X	X	
A23	Satellite Dishes		X	X	X	X	
A24	Signs						
A25	Auxiliary/Emergency Power Generators and Windmills	A3	X	X		X	
A26	Swimming Pools and Exercise Pools/swim spas and Hot Tubs	A1, A11 A22	X	X	X	X	
A27	Tree Removal	A22	X			X	
A28	Vehicles and Parking						
A29	Walls, Retaining Walls, & Driveway Piers		X	X	X	X	X
A30	Water Ponds, Waterscapes, Water Features		X	X	X	X	
A31	Woodpiles		X			X	
A32	Greenhouses		X	X	X	X	
A33	Solar Collection Devices		X	X		X	
A34	Outdoor Fireplaces & Fire Pits		X	X	X	X	
A35	Other Lot Improvements		X		X		X