

ISSUE #1

MARKUP #1 ->

Section 1: [Protective Covenants & Architectural Control Guidelines, Section 4.1] Absolute Prohibition on Exterior Antennas

No exterior television or radio antenna, satellite dish, solar panel, or other electronic receiving or transmitting device of any kind shall be placed, allowed, or maintained upon any portion of a Lot or Residential Structure without the prior written consent of the Architectural Control Committee, which consent may be withheld in the sole and absolute aesthetic discretion of the Committee.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. Protective Covenants & Architectural Control Guidelines, Section 4.1 (p. 1): 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 (OTARD Rule)

Statutory Comparison: The FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000) preempts community association restrictions that prohibit, require prior architectural approval for, or impose sub-1-meter (39.37-inch) diameter caps on the installation, maintenance, or use of antennas and satellite dishes 1 meter or less in diameter situated on property within the exclusive use or control of the owner/tenant.

CURRENT WORDING IN DOCUMENT:

[Protective Covenants & Architectural Control Guidelines, Section 4.1] Absolute Prohibition on Exterior Antennas, Satellite Dishes, and Solar Collectors - No exterior television or radio antenna, satellite dish, solar panel, or other electronic receiving or transmitting device of any kind shall be placed, allowed, or maintained upon any portion of a Lot or Residential Structure without the prior written consent of the Architectural Control Committee, which consent may be withheld in the sole and absolute aesthetic discretion of 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 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).