

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

7. Swimming Pools.

No swimming pool shall be constructed, placed, altered or maintained upon any Lot without the prior written approval of the ARC of the type, design and location thereof. Any such swimming pool must be also constructed, equipped and maintained in accordance with the county and state authorities. All swimming pools must be properly screened for safety and privacy from adjoining Dwellings.

ISSUE #1

8. Satellite Receiving Dish.

No satellite receiving dish or antenna system of any kind shall be located on any Lot, home or building within the Subdivision except that a satellite receiving dish not greater than 18” in diameter may be installed in a location behind the Dwelling or on the roof at the back of the Dwelling. No satellite dish is to be installed in the front or on the side of a Dwelling (including the front or side roof) without ARC approval prior to installation. Such approval will only be granted in limited circumstances where the Owner has a written statement from the satellite provider that it is not possible to pick up a signal at an approved location. In such cases, every effort must be made to minimize visibility of the satellite dish.

9. Signs.

No sign of any kind shall be displayed to the public view on any Lot or Dwelling except the temporary professional sign of not more than six (6) square feet, advertising the Lot or Dwelling for sale or rent, or signs used by a General Contractor to advertise during the construction and sales period. In addition, signs indicating security service for a residence are allowed as long as they are supplied by the security company. All signs shall comply with any design specifications adopted by the ARC. No signs shall be nailed to trees or placed on Common Areas without Board or ARC approval. The Association reserves the right to place signs on Common Areas owned by the Association in the discretion of the Board.

10. HVAC Equipment.

(a) Outside air conditioning units may not be located in the front yard or any required side yard on comer lots. No window air conditioning units shall be permitted.

(b) No plumbing or heating vent shall be placed on the front side of the roof.

11. Storage of Boats, Trailers and Other Vehicles.

No motor homes, boats or other water vehicles of any kind, trailers, or service trucks or service vans can be parked or stored in any location that can be seen from the

Sec. 4 (p. 6): 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:

Satellite Receiving Dish. No satellite receiving dish or antenna system of any kind shall be located on any Lot, home or building within the Subdivision except that a satellite receiving dish not greater than 18" in diameter may be installed in a location behind the Dwelling or on the roof at the back of the 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 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).