

ISSUE #1

such that they are visible from the Common Areas, including signs in or on vehicles parked on a Lot, except as permitted by the Rules and Regulations. Security signs are permissible, as provided in the Act.

5.5 Television and Other Outdoor Antennae. No wires, masts, towers, antennae, aerial, weathervanes, anemometers, or exposed wiring for any purpose or other equipment or structures may be erected, constructed, or maintained on the exterior of any Parcel nor in any of the Common Areas except with the prior written consent of the Board, and except as follows:

No television, radio, satellite, or other antenna or satellite system may be installed on the Common Areas by any Person other than the Association, except as provided herein. Certain television, satellite, or other antenna systems may be erected or installed on Parcels subject to compliance with the following requirements:

Permitted antennas include (collectively hereinafter referred to as “antennas”):

- Direct broadcast satellite dishes (DBS) that are less than one (1) meter in diameter.
- Multi-channel, multi-point distribution service devices (MMDS) that are less than one (1) meter in diameter or diagonal measurement. Such devices may be mounted on “masts” to reach the height needed to establish line of sight contact with the transmitter provided no mast may be higher than twelve (12) feet above the roof line of a residence without prior written approval of the Association.
- Television broadcast antennas for local stations, which may be any reasonable size, which may be secured to a mast located no higher than twelve feet above the roof line. Any mast located higher than twelve feet above the roof line must be approved in writing by the Association.

Location of Antennas. To the extent feasible, all antennas must be placed in locations that are not visible from any street and in a location to minimize annoyance or inconvenience to other Residents of the Community if this placement would still permit reception of an acceptable quality signal.

Color and Screening of Antennas. All antennas shall be painted to blend into the background against which it is mounted for so long as the paint will not interfere with an acceptable quality signal. If the antenna is not mounted on a building, it must be made the color of the exterior walls of the Home on that Lot. All antennas shall be screened from view from neighboring properties, and pedestrian and vehicular access areas, with landscaping plants commonly used in or about the Community at a height of at least forty-eight (48) inches. Taller antennas shall be screened to their

Consolidated, Amended, and Restated
Master Declaration of Covenants, Conditions, and Restrictions
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MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 5.5 (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 (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:

Television and Other Outdoor Antennae. No wires, masts, towers, antennae, aerial, weathervanes, anemometers, or exposed wiring for any purpose or other equipment or structures may be erected, constructed, or maintained on the exterior of any Parcel nor in any of the Common Areas except with the prior written consent of the Board, and except as follows: No television, radio, satellite, or other antenna or satellite system may be installed on the Common Areas by any Person other than the Association, except as provided herein.

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).