

ISSUE #1

Section 1: [Article III, Section 22] Satellite Dishes and Antennas

MARKUP #1 ->

No satellite dishes or antennas shall be erected or maintained on any lot without the prior written approval of the ARB as to size and location. Satellite dishes shall not exceed 24 inches in diameter and shall not be visible from the street.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. Article III, Section 22 (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:

[Article III, Section 22] Satellite Dishes and Antennas - No satellite dishes or antennas shall be erected or maintained on any lot without the prior written approval of the ARB as to size and location. Satellite dishes shall not exceed 24 inches in diameter and shall not be visible from the street.

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).