Section 3.4 - Sample Provision Excerpt (Public Preview)

Unless otherwise permitted by law, all antennas and satellite dishes shall be located in the least visible location to help control the visual clutter of non-architectural elements attached to the exterior of the home. Antennas and satellite dishes larger than 18" in size shall be grademounted and may not be located on a roof.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 3.4 (p. 10): 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:

Unless otherwise permitted by law, all antennas and satellite dishes shall be located in the least visible location to help control the visual clutter of non-architectural elements attached to the exterior of the home. Antennas and satellite dishes larger than 18" in size shall be grademounted and may not be located on a roof.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Unless otherwise permitted by law, all antennas and satellite dishes shall be located in the least visible location to help control the visual clutter of non-architectural elements attached to the exterior of the home. Antennas and satellite dishes larger than 18" in size shall be grademounted and may not be located on a roof. [FEDERAL OTARD CARVEOUT]: 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...