

Section 2.11.3 - Sample Provision Excerpt (Public Preview)

or satellite dish television services and equipment of not to exceed five (5) years duration - I O- 7333-123196\BYLA WS\1257734.3 1/28/16 provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 2.11.3 (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 (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:

or satellite dish television services and equipment of not to exceed five (5) years duration - I O- 7333-123196\BYLA WS\1257734.3 1/28/16 provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

or satellite dish television services and equipment of not to exceed five (5) years duration 7333-123196\BYLA WS\1257734.3 1/28/16 provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more. [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 owner's or occupant's exclusive use or control, in...