ISSUE #1

Section 9 - Sample Provision Excerpt (Public Preview)

(C) No exterior :ounted radio, short wave, or television antenna or any other reception or transmission facility shall be permitted if it is visible to neighboring dwellings or the prblic. (d) Appliances or other installations upon the roofs of structures shall not be pernitted unless they are installed in such a manner that they are not visib?s...

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 9 (p. 1): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas on exclusive-use property 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 (39.37 inches) 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. Under 47 C.F.R. § 1.4000(a)-(b), associations may only restrict installations on shared/general common elements, dishes exceeding 1 meter in diameter, or where necessary for a specific documented safety objective (§ 1.4000(b)(1)) or a National Register of Historic Places site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:

(C) No exterior :ounted radio, short wave, or television antenna or any other reception or transmission facility shall be permitted if it is visible to neighboring dwellings or the prblic. (d) Appliances or other installations upon the roofs of structures shall not be pernitted unless they are installed in such a manner that they are not visib?s...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000), subject only to restrictions on shared common elements, dishes exceeding one meter in diameter, documented safety objectives (§ 1.4000(b)(1)), or historic preservation requirements (§ 1.4000(b)(2)).