ISSUE #1

Section 27. - Sample Provision Excerpt (Public Preview)

BK 3725 PG 412 B. No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors, except as shall be permitted by the Architectural Control Committee.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 27. (p. 1): Potential FCC OTARD impairment (47 C.F.R. § 1.4000): clause imposes an antenna/satellite-dish ban, prior-approval delay, or sub-1-meter size/placement limit conditional on covered <= 1-meter reception devices on exclusive-use property.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: Under the FCC Over-the-Air Reception Devices (OTARD) Rule, 47 C.F.R. § 1.4000, preemption applies conditionally to covered <= 1-meter (39.37-inch) satellite dishes, TV broadcast antennas, and fixed wireless antennas on property within the owner's or occupant's exclusive use or control (excluding shared common elements), invalidating prior-approval delays, unreasonable installation/screening costs, and size/placement limits that preclude an acceptable quality signal absent a documented safety (§ 1.4000(b)(1)) or historic-site (§ 1.4000(b)(2)) exception.

CURRENT WORDING IN DOCUMENT:

BK 3725 PG 412 B. No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors, except as shall be permitted by the Architectural Control Committee.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding the foregoing, Owners and residents may install and maintain a direct-broadcast satellite (DBS) dish, MMDS antenna, or television broadcast antenna one meter (39.37 inches) or less in diameter on property within their exclusive use or control without prior architectural approval or application fees, in accordance with the FCC OTARD Rule (47 C.F.R. § 1.4000).