ISSUE #1

Section 9. - Sample Provision Excerpt (Public Preview)

Air Conditioning Units, Television, or Communication Antennas. No air conditioning unit, evaporative cooler, radio, television antennae or other object shall be placed upon the roof, fireplace chimney, or protrude from the ground higher than 6' of any residence or building, except or unless such air conditioning unit, or object is architecturally...

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.

CURRENT WORDING IN DOCUMENT:

Air Conditioning Units, Television, or Communication Antennas. No air conditioning unit, evaporative cooler, radio, television antennae or other object shall be placed upon the roof, fireplace chimney, or protrude from the ground higher than 6' of any residence or building, except or unless such air conditioning unit, or object is architecturally...

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)).