ISSUE #1

Section 7.12. - Sample Provision Excerpt (Public Preview)

Antennas, Aerials and Satellite Dishes. No exterior antennas, aerials, satellite dishes, or other apparatus larger than thirty-six (36) inches in diameter and intended for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of any Lot.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 7.12. (p. 1): FCC OTARD Satellite Dish / Antenna Preemption Defect: Clause imposes a blanket ban, prior-approval delay, or sub-1-meter size cap on residential reception antennas/satellite dishes preempted by 47 C.F.R. § 1.4000.

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, promulgated under § 207 of the Telecommunications Act of 1996, any covenant or rule that prohibits, requires prior architectural approval before installation, or restricts satellite dishes/antennas measuring one meter (39.37 inches) or less in diameter on property within the owner's exclusive use or control is federally preempted and void.

CURRENT WORDING IN DOCUMENT:

Antennas, Aerials and Satellite Dishes. No exterior antennas, aerials, satellite dishes, or other apparatus larger than thirty-six (36) inches in diameter and intended for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of any Lot.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 7.12. to incorporate the mandatory statutory safe harbors of 47 C.F.R. § 1.4000 (FCC OTARD Rule); Ind. Code Title 32, Art. 25.5 (Indiana Homeowners Associations Act), permitting OTARD reception antennas (up to 1 meter in diameter without prior approval) and solar/EV/water-wise installations within statutory parameters.