ISSUE #1

Section 6 - Sample Provision Excerpt (Public Preview)

NUISANCES. No noxious or offensive trade or activity shall be carried on upon any lot within the Property nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No immobile or "junk" cars, trailers, recreational vehicles or boats shall be allowed to be parked upon streets or public rights-of-way or on any portion of the Property other than within a garage or an approved storage facility. No microwave, dish, or other receiver or transmitter exceeding a twenty-four (24) inch radius, outside clothes lines, antenna, shortwave or "ham" radios and shortwave towers shall be allowed on or within the Property.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 6 (p. 2): FCC OTARD Rule violation (47 C.F.R. § 1.4000). The clause imposes a blanket prohibition on any "antenna" on lots within the Property, impairing the installation, maintenance, and use of protected television broadcast and qualifying wireless/satellite antennas on exclusive-use property.

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

Statutory Comparison: Under 47 C.F.R. § 1.4000(a)(1) and (a)(3), a private covenant on property within the exclusive use or control of an antenna user holding a direct or indirect ownership or leasehold interest may not unreasonably delay, prevent, or increase the cost of installing, maintaining, or using a covered antenna, or preclude reception or transmission of an acceptable quality signal. While the clause permits dishes up to a 24-inch radius (48-inch diameter), it separately bans any "antenna" on or within the Property without exception, which directly conflicts with federal protection for television broadcast antennas (protected regardless of size under § 1.4000(a)(1)(iii)), covered satellite and multipoint/fixed-wireless antennas one meter or less in diameter or diagonal measurement (§ 1.4000(a)(1)(i)-(ii)), and supporting masts (§ 1.4000(a)(1)(iv)), subject only to narrowly tailored safety or historic-preservation restrictions meeting § 1.4000(b).

CURRENT WORDING IN DOCUMENT:

NUISANCES. No noxious or offensive trade or activity shall be carried on upon any lot within the Property nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No immobile or "junk" cars, trailers, recreational vehicles or boats shall be allowed to be parked upon streets or public rights-of-way or on any portion of the Property other than within a garage or an approved storage facility. No microwave, dish, or other receiver or transmitter exceeding a twenty-four (24) inch radius, outside clothes lines, antenna, shortwave or "ham" radios and shortwave towers shall be allowed on or within the Property.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

No microwave, dish, or other receiver or transmitter exceeding a twenty-four (24) inch radius, outside clothes lines, shortwave or "ham" radios and shortwave towers shall be allowed on or within the Property; provided, however, that antennas, satellite dishes, and supporting masts covered by the FCC Over-the-Air Reception Devices Rule (47 C.F.R. § 1.4000) are permitted on portions of a Lot within the owner's or occupant's exclusive use or control to the extent protected by federal law.