2003274 1 2350

Section 10: Outbuildings

No outbuilding shall be constructed without the prior approval of the Architectural Committee. All outbuildings shall be constructed keeping with the construction and architecture of the other buildings located on the Lot.

No outbuildings shall be constructed, configured, plumbed or wired in such a way so as to be used as a residence either temporarily or permanently. No kitchen facilities or bath/toilet facilities shall be constructed and/or maintained in any outbuilding. During construction of the residence only a portable, self-contained construction toilet may be maintained on said property. Said toilet must be removed before occupation of the residence.

Section 11: Utilities

All utilities shall be placed underground.

ISSUE #1

Section 12: Antennas, Poles, Satellite Dishes

No antennas, poles or other devices may be erected. Only satellite dishes of eighteen inches (18") in diameter or smaller shall be erected.

Section 13: House Numbers

Owners shall maintain visible house numbers either on the house or at the driveway entrance which shall be legible from the road.

Section 14: Fences

The appearance, height, material and construction of all fences must conform to local zoning regulations and must be approved by the Architectural Committee prior to construction.

Section 15: Roofing Material

Only Class A or B roofing materials as rated by the National Fire Protection Association may be used in new or replacement construction. The Architectural Committee may establish common roofing guidelines.

Section 16: Flood Plain

No construction shall occur on any portion of a Lot contained within the 100 year flood plain without prior approval of a Flood Plain Permit issued by the City of Whitefish.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT — BOARD & COUNSEL REVIEW

Sec. 12 (p. 8): FCC OTARD preemption conflict (47 C.F.R. § 1.4000): Outright antenna/satellite-dish prohibition, sub-1-meter diameter cap, mandatory cable-hookup removal, permit fee, or unqualified front-elevation/street-visibility ban is unenforceable as applied to 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 rule (47 C.F.R. § 1.4000, including FCC 21-10), preemption applies to covered direct-broadcast satellite (DBS/DSS) dishes one meter (39.37 inches) or less in diameter, television broadcast antennas, and fixed wireless broadband antennas installed within areas under the owner's or occupant's exclusive use or control. Outright bans, sub-1-meter diameter caps, monetary permit fees, mandatory removal upon cable availability, and unqualified front-elevation or street-visibility prohibitions that preclude an acceptable quality signal are preempted unless justified by a documented safety objective (§ 1.4000(b)(1)) or a National Register historic site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:

_ Antennas, Poles, Satellite Dishes No antennas, poles or other devices may be erected. Only satellite dishes of eighteen inches (18") in diameter or smaller shall be erected.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that for covered reception antennas and satellite dishes one meter (39.37 inches) or less in diameter installed within areas under the owner's or occupant's exclusive use or control, this provision shall be administered in accordance with 47 C.F.R. § 1.4000 without outright prohibition, permit fee, or placement/size limits that preclude an acceptable quality signal, while preserving association authority over shared common elements, dishes exceeding one meter, documented safety objectives (§ 1.4000(b)(1)), and historic preservation sites (§ 1.4000(b)(2)).