

ISSUE #1

MARKUP #1 ->

Section 5: [Paragraph 2(k)(E)] Antennas and Satellite Dishes: 24-Inch Limit, Attic/Out-of-View Mandate & Ban on Over-

E. Antennas and Satellite Dishes: In accordance with Federal Communication Commission requirements, it is preferred that only one satellite dish or disc, not to exceed twenty four (24) inches in diameter or its equivalent, be installed out of view of the street, not on the front portion of any building or structure, at least six feet (6') below the highest point of the general roof line of the residence, and, if possible, be installed in an attic area rather than on the exterior. No antennas used to receive distant over-the-air television signals, or antennas used for AM/FM radio, amateur (ham) radio, citizen's band (CB) radio or Digital Radio Services (DARS) will be permitted. No satellite dish or disc over one meter (39.37") will be permitted.

Section 6: [Paragraph 2(k)(F)] Prohibited Structures: Ban on Clotheslines, Windmills, and Outbuildings

F. Prohibited Structures: No tree houses, clotheslines, tool sheds, windmills, outbuildings or other attached or unattached structures, prefabricated factory built dwellings of any kind, or similar structures shall be permitted on any lot.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 5 (p. 2): 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:

[Paragraph 2(k)(E)] Antennas and Satellite Dishes: 24-Inch Limit, Attic/Out-of-View Mandate & Ban on Over-th E. Antennas and Satellite Dishes: In accordance with Federal Communication Commission requirements, it is preferred that only one satellite dish or disc, not

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 5 to incorporate the mandatory statutory safe harbors of 47 C.F.R. § 1.4000 (FCC OTARD Rule); Neb. Rev. Stat. §§ 76-825 to 76-894, Ch. 21, Art. 19 & 299 NAC Ch. 5 (Nebraska Real Estate Commission Disclosure Rules), permitting OTARD reception antennas (up to 1 meter in diameter without prior approval) and solar/EV/water-wise installations within statutory parameters.