

Section D - Sample Provision Excerpt (Public Preview)

* No enclosures, dividers, screens, satellite dishes, or structures of any kind may be installed without prior written approval from Management. * Vining plants may not attach to or grow on building surfaces, railings, or dividers.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. D (p. 14): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas 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...

CURRENT WORDING IN DOCUMENT:

* No enclosures, dividers, screens, satellite dishes, or structures of any kind may be installed without prior written approval from Management. * Vining plants may not attach to or grow on building surfaces, railings, or dividers.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

No enclosures, dividers, screens, satellite dishes, or structures of any kind may be installed without prior written approval from Management. Vining plants may not attach to or grow on building surfaces, railings, or dividers. [FEDERAL OTARD CARVEOUT]: Provided that this restriction shall not prohibit or require prior approval for any owner or occupant installing an antenna, fixed wireless...