MARKED-UP PAGE 1: 1 COMPLIANCE ISSUE (#1) - SEE REDLINE COMMENTS AT RIGHT ->

Section 10.05. - Sample Provision Excerpt (Public Preview)

No Above Surface Utilities Without
Approval. No facilities, including without limitation, poles,
antennas, dishes or wires for the transmission of electricity,
-83
-
electronic or telephone messages, and water, gas, sanitary and
drainage pipes and conduits shall be placed or
maintained above the surface of the ground on any portion of...

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 10.05. (p. 37): 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 Above Surface Utilities Without Approval. No facilities, including without limitation, poles, antennas, dishes or wires for the transmission of electricity, -83 - electronic or telephone messages, and water, gas, sanitary and storm sewer drainage pipes and conduits shall be placed or maintained above the surface of the ground on any portion of...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Notwithstanding any contrary provision in this section, this covenant shall be administered and enforced strictly in accordance with 47 C.F.R. § 1.4000 (FCC OTARD Rule). Association counsel should review this provision and adopt a conforming amendment or board policy resolution to align with 47 C.F.R. § 1.4000 (FCC OTARD Rule).