ISSUE #1

Section 6.12 - Sample Provision Excerpt (Public Preview)

Antennas. No outside antennas of any type are permitted except a standard size satellite antenna dish.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 6.12 (p. 1): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas on exclusive-use property 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 satellite dishes 1 meter (39.37 inches) or less in diameter, and fixed wireless broadband antennas (including hub and relay antennas) situated on property within the exclusive use or control of the owner/tenant. Under 47 C.F.R. § 1.4000(a)-(b), associations may only restrict installations on shared/general common elements, dishes exceeding 1 meter in diameter, or where necessary for a specific documented safety objective (§ 1.4000(b)(1)) or a National Register of Historic Places site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:

Antennas. No outside antennas of any type are permitted except a standard size satellite antenna dish.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000), subject only to restrictions on shared common elements, dishes exceeding one meter in diameter, documented safety objectives (§ 1.4000(b)(1)), or historic preservation requirements (§ 1.4000(b)(2)).