ISSUE #1

Section 2.2 - Sample Provision Excerpt (Public Preview)

A single satellite dish not exceeding 18" in diameter may be installed on a residence. Any satellite dish installed must not be visible from the front of the lot or street.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 2.2 (p. 1): 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:

A single satellite dish not exceeding 18" in diameter may be installed on a residence. Any satellite dish installed must not be visible from the front of the lot or street.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 2.2 to incorporate the mandatory federal safe harbor of 47 C.F.R. § 1.4000, permitting OTARD reception antennas and satellite dishes up to 1 meter (39.37 inches) in diameter on exclusive-use property without prior architectural approval.