

Section 6 - Sample Provision Excerpt (Public Preview)

,08: 6.08.1: 6.08.2: 6.08.3: 6.08.4: 6.08.5: Type of Residence Single Family Residence Garages and Garage Doors New Construction and Continued Maintenance Required Tents, Mobile Homes and Temporary Structures Prohibited Living Area Requirements Location of Residence Drainage Easements and Devices Lot Resubdivision or Combination Lot Line Fences or Walls Antennas and Satellite Dish Systems General Rule Prohibited Antenna Signs General Prohibited Signs Permitted Signs Political Signs Default

ISSUE #1



MARKUP #1 ->



MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 6 (p. 6): 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 satellite dishes 1 meter 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.

CURRENT WORDING IN DOCUMENT:

,08: 6.08.1: 6.08.2: 6.08.3: 6.08.4: 6.08.5: Type of Residence Single Family Residence Garages and Garage Doors New Construction and Continued Maintenance Required Tents, Mobile Homes and Temporary Structures Prohibited Living Area Requirements Location of Residence Drainage Easements and Devices Lot Resubdivision or Combination Lot Line Fences or Walls Antennas and Satellite Dish Systems General Rule Prohibited Antenna Signs General Prohibited Signs Permitted Signs Political Signs Default

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

,08: 6.08.1: 6.08.2: 6.08.3: 6.08.4: 6.08.5: Type of Residence Single Family Residence Garages and Garage Doors New Construction and Continued Maintenance Required Tents, Mobile Homes and Temporary Structures Prohibited Living Area Requirements Location of Residence Drainage Easements and Devices Lot Resubdivision or Combination Lot Line Fences or Walls Antennas and Satellite Dish Systems General Rule Prohibited Antenna Signs General Prohibited Signs Permitted Signs Political Signs Default [FEDERAL OTARD CARVEOUT]: Provided that this restriction shall not prohibit or require prior approval for any owner or...