

Section 17 - Sample Provision Excerpt (Public Preview)

application of the location of where the dish will be placed on the property. a. Satellite dishes which are mounted below the fence line on the side or back of a home and not visible from the public thoroughfare(s) are considered as being in an acceptable location and do not require written approval.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 17 (p. 5): 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:

application of the location of where the dish will be placed on the property. a. Satellite dishes which are mounted below the fence line on the side or back of a home and not visible from the public thoroughfare(s) are considered as being in an acceptable location and do not require written approval.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

application of the location of where the dish will be placed on the property. a. Satellite dishes which are mounted below the fence line on the side or back of a home and not visible from the public thoroughfare(s) are considered as being in an acceptable location and do not require written approval. [FEDERAL OTARD CARVEOUT]: Provided that this restriction shall not prohibit or require prior approval for any owner or occupant installing an antenna, fixed wireless broadband hub/relay device, or satellite dish of one meter (39.37 inches) or less in diameter within areas under the owner's or occupant's exclusive...