## Section General - Sample Provision Excerpt (Public Preview)

If there is an aerial easement on the lot, the utility company may permit placement of a permanent structure in the easement. It is the responsibility of the applicant to obtain a Consent for Encroachment.

ISSUE #1

MARKUP #1 ->



MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

**Sec. General (p. 3): 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:
If there is an aerial easement on the lot, the utility company may permit placement of a permanent structure in the easement. It is the responsibility of the applicant to obtain a Consent for Encroachment.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
**If there is an aerial easement on the lot, the utility company may permit placement of a permanent structure in the easement. It is the responsibility of the applicant to obtain a Consent for Encroachment. [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,...**