Wintergreen POA · Declaration of Covenants, Conditions & Restrictions (Declaration / CC&Rs) - Page 1

ISSUE #1

Section 8 - Sample Provision Excerpt (Public Preview)

No television antenna, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of open space property within Wintergreen except as following: a) The provisions of this paragraph shall not prohibit the Company from installing equipment necessary for a master antenna system, Community Antenna Television (C.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 8 (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.

CURRENT WORDING IN DOCUMENT:

No television antenna, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of open space property within Wintergreen except as following: a) The provisions of this paragraph shall not prohibit the Company from installing equipment necessary for a master antenna system, Community Antenna Television (C.

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)).