ISSUE #1

Section 2.1.8 - Sample Provision Excerpt (Public Preview)

Antennas. No antenna, aerial, satellite dish or cable for television or radio reception which is greater than 36" in diameter shall be erected or installed on or in any roof or any other portion of a Building, on any Lot, or on the unimproved portions of such properties, except as erected or installed by Declarant, the Association, or any individual Owner...

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 2.1.8 (p. 1): Potential FCC OTARD impairment (47 C.F.R. § 1.4000): clause imposes an antenna/satellite-dish ban, prior-approval delay, or sub-1-meter size/placement limit conditional on covered <= 1-meter reception devices on exclusive-use property.

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, preemption applies conditionally to covered <= 1-meter (39.37-inch) satellite dishes, TV broadcast antennas, and fixed wireless antennas on property within the owner's or occupant's exclusive use or control (excluding shared common elements), invalidating prior-approval delays, unreasonable installation/screening costs, and size/placement limits that preclude an acceptable quality signal absent a documented safety (§ 1.4000(b)(1)) or historic-site (§ 1.4000(b)(2)) exception.

CURRENT WORDING IN DOCUMENT:

Antennas. No antenna, aerial, satellite dish or cable for television or radio reception which is greater than 36" in diameter shall be erected or installed on or in any roof or any other portion of a Building, on any Lot, or on the unimproved portions of such properties, except as erected or installed by Declarant, the Association, or any individual Owner...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding the foregoing, Owners and residents may install and maintain a direct-broadcast satellite (DBS) dish, MMDS antenna, or television broadcast antenna one meter (39.37 inches) or less in diameter on property within their exclusive use or control without prior architectural approval or application fees, in accordance with the FCC OTARD Rule (47 C.F.R. § 1.4000).