ISSUE #1

Section 4 - Sample Provision Excerpt (Public Preview)

(9) Utilities shall be installed underground. No antenna or satellite dish shall be installed on any struature or lot so that it is visible from any other lot and there shall be no visible roof antenna. House numbers shall be visible and readable for each residential lot.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 4 (p. 1): FCC OTARD Satellite Dish / Antenna Preemption Defect: Clause imposes a blanket ban, prior-approval delay, or sub-1-meter size cap on residential reception antennas/satellite dishes preempted by 47 C.F.R. § 1.4000.

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, promulgated under § 207 of the Telecommunications Act of 1996, any covenant or rule that prohibits, requires prior architectural approval before installation, or restricts satellite dishes/antennas measuring one meter (39.37 inches) or less in diameter on property within the owner's exclusive use or control is federally preempted and void.

CURRENT WORDING IN DOCUMENT:

(9) Utilities shall be installed underground. No antenna or satellite dish shall be installed on any struature or lot so that it is visible from any other lot and there shall be no visible roof antenna. House numbers shall be visible and readable for each residential lot.

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).