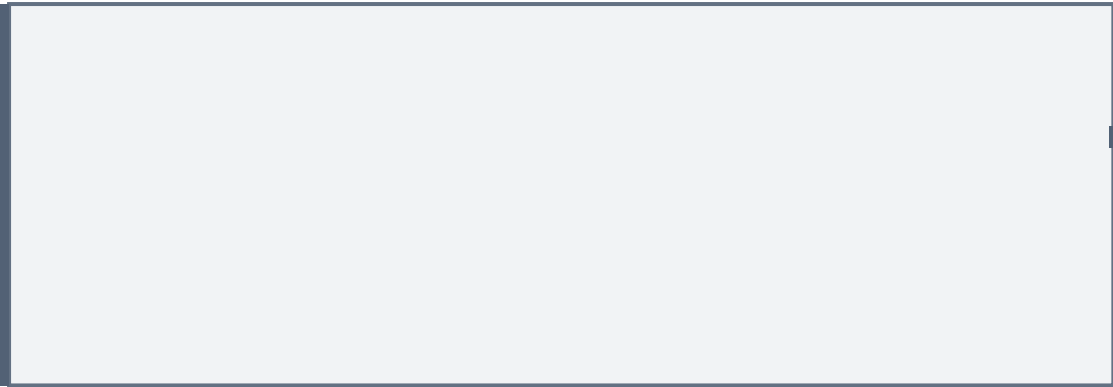


Section 4.01 - Sample Provision Excerpt (Public Preview)

Except as specifically allowed in writing by the Architectural Control Committee, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed

ISSUE #1



MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 4.01 (p. 7): Governance clause suspends owner voting rights or imposes non-statutory disqualifications on running for the Board of Directors, which are void under Tex. Prop. Code § 209.0059 and § 209.00591.

Statutory / Legal Reference: Tex. Prop. Code § 209.0059, § 209.00591 & § 209.00592
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:

Except as specifically allowed in writing by the Architectural Control Committee, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Except as specifically allowed in writing by the Architectural Control Committee, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed [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 use or...