

Section 4.10. - Sample Provision Excerpt (Public Preview)

Poles, Masts, Exterior Antennae/Air Conditioners. No poles, masts, radio or television wires, satellite dishes or antennae shall be placed on any Lot between the residence and an adjoining Street; nor shall poles, masts, antennae, including free-standing antennae, be installed within the envelope of the residence without the express written approval of the Committee.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 4.10. (p. 8): Provision prohibits exterior antennas/satellite dishes, requires prior written approval before installing a satellite dish, or bans street-facing satellite dishes/solar collectors in conflict with the FCC OTARD Rule (47 C.F.R. § 1.4000) and Tex. Prop. Code §§ 202.010, 202.019.

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 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:

Poles, Masts, Exterior Antennae/Air Conditioners. No poles, masts, radio or television wires, satellite dishes or antennae shall be placed on any Lot between the residence and an adjoining Street; nor shall poles, masts, antennae, including free-standing antennae, be installed within the envelope of the residence without the express written approval of the Committee.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Poles, Masts, Exterior Antennae/Air Conditioners. No poles, masts, radio or television wires, satellite dishes or antennae shall be placed on any Lot between the residence and an adjoining Street; nor shall poles, masts, antennae, including free-standing antennae, be installed within the envelope of the residence without the express written approval of the Committee. [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...