

Section 4.05. - Sample Provision Excerpt (Public Preview)

Subdivisions or approved by the Architectural Control Committee. No antennas, windmills, appliances, Declaration of Covenants. Conditions and Restrictions for Eagle Ranch rooftop attic ventilators, fans, solar collector panels or other rooftop installations or structure of any type shall

ISSUE #1



MARKUP #1 ->



MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 4.05. (p. 23): Covenant suspending owner voting rights for delinquency or covenant violations is void under the Texas Property Code.

Statutory / Legal Reference: Tex. Prop. Code § 209.0059(a) & § 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:

Subdivisions or approved by the Architectural Control Committee. No antennas, windmills, appliances, Declaration of Covenants. Conditions and Restrictions for Eagle Ranch rooftop attic ventilators, fans, solar collector panels or other rooftop installations or structure of any type shall

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Subdivisions or approved by the Architectural Control Committee. No antennas, windmills, appliances, Declaration of Covenants. Conditions and Restrictions for Eagle Ranch rooftop attic ventilators, fans, solar collector panels or other rooftop installations or structure of any type shall [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 control,...