



Section 26 - Sample Provision Excerpt (Public Preview)

FLAG POLES. Except as otherwise permitted by law, no flag poles shall be installed without the prior approval of the ACC.

ISSUE #1



MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 26 (p. 9): Flag or flagpole restriction fails to include statutory exemption for the United States flag under the Freedom to Display the American Flag Act.

Statutory / Legal Reference: 4 U.S.C. § 5 Note (Freedom to Display the American Flag Act of 2005) & Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules)

Statutory Comparison: The federal Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L. 109-243) prohibits community associations from adopting or enforcing any policy that prevents a member from displaying the flag of the United States on residential property to which the member has a separate ownership interest or right to exclusive possession or use.

CURRENT WORDING IN DOCUMENT:

FLAG POLES. Except as otherwise permitted by law, no flag poles shall be installed without the prior approval of the ACC.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

In accordance with the Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L. 109-243), any homeowner may respectfully display the official United States flag on residential property under their ownership or exclusive use.