

Section 5.9 - Sample Provision Excerpt (Public Preview)

Antennas. No antenna for the transmission or reception of telephone, television, microwave or radio signals shall be placed on any building or other Improvement within the Regime without the written approval of the Board.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 5.9 (p. 10): 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:

Antennas. No antenna for the transmission or reception of telephone, television, microwave or radio signals shall be placed on any building or other Improvement within the Regime without the written approval of the Board.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Antennas. No antenna for the transmission or reception of telephone, television, microwave or radio signals shall be placed on any building or other Improvement within the Regime without the written approval of the Board. [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, in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000).