

Section COVENANT ENFORCEMENT AND FINE POLICY - Sample Provision Excerpt (Public Preview)

No television, radio or other similar antennas, masts or receiving or sending apparatus shall be erected on any lot in such a way as to be visible from the fronting street. No use shall be made on any lot or structure thereof for any type of radio or television or similar broadcasting system, whether for commercial or individual use. \

ISSUE #1



MARKUP #1 ->



MARKUP #1 · STATUTORY FINING & HEARING DEFECT

BOARD & COUNSEL REVIEW

Sec. COVENANT ENFORCEMENT AND FINE POLICY (p. 10): Fining or suspension provision omits modern statutory due-process safeguards (advance written notice specifying the violation and curing window, formal hearing procedure, and statutory fine caps) required under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d).

Statutory / Legal Reference: Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061

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...

CURRENT WORDING IN DOCUMENT:

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SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

No television, radio or other similar antennas, masts or receiving or sending apparatus shall be erected on any lot in such a way as to be visible from the fronting street. No use shall be made on any lot or structure thereof for any type of radio or television or similar broadcasting system, whether for commercial or individual use. \ [FEDERAL OTARD CARVEOUT]: Provided that this restriction...