

Section 2.6.1.5 - Sample Provision Excerpt (Public Preview)

Such flags cannot contain language, graphics or any display that would be offensive to the ordinary person. No other political entity flags are allowed outside of those listed in section 2.6. I .I . OHOA reserves the right to remove a flag displayed in violation ofthese requirements.

ISSUE #1



MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 2.6.1.5 (p. 4): 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:

Such flags cannot contain language, graphics or any display that would be offensive to the ordinary person. No other political entity flags are allowed outside of those listed in section 2.6. I .I . OHOA reserves the right to remove a flag displayed in violation ofthese requirements.

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.