Section 3.17 - Sample Provision Excerpt (Public Preview)

Clothesline. No clothesline may be maintained on any Lot, unless enclosed by a hedge or other type of screening enclosure as approved by the Committee.
Yard Art and Flags. No flag poles, statues, or other yard art are allowed. Temporary flags for celebrating holidays are permitted but must be limited to Texas or American flags.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW — BOARD & COUNSEL REVIEW

Sec. 3.17 (p. 6): 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:
Clothesline. No clothesline may be maintained on any Lot, unless enclosed by a hedge or other type of screening enclosure as approved by the Committee. Yard Art and Flags. No flag poles, statues, or other yard art are allowed. Temporary flags for celebrating holidays are permitted but must be limited to Texas or American flags.

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.