

Section 5.18 - Sample Provision Excerpt (Public Preview)

easement or encroaching into an aerial easement, and cannot be closer to a Residence on an adjacent lot than the height of the flagpole (for example, a 20' flagpole cannot be installed closer than 20' from an adjacent Residence).

ISSUE #1



MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

**Sec. 5.18 (p. 9): Clause permits directors to vote or establish a board quorum by proxy at Board of Directors meetings without requiring express authorization in the Certificate of Formation under Tex. Bus. Orgs. Code § 22.214.**

Statutory / Legal Reference: Tex. Bus. Orgs. Code § 22.213 - 22.214 & Tex. Prop. Code § 209.0051

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:**  
easement or encroaching into an aerial easement, and cannot be closer to a Residence on an adjacent lot than the height of the flagpole (for example, a 20' flagpole cannot be installed closer than 20' from an adjacent Residence).

**SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):**  
easement or encroaching into an aerial easement, and cannot be closer to a Residence on an adjacent lot than the height of the flagpole (for example, a 20' flagpole cannot be installed closer than 20' from an adjacent Residence). [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.