



Section 10.13 - Sample Provision Excerpt (Public Preview)

Flags. Although public policy encourages the flying of flags as a display of pride and patriotism, without the board's prior written authorization, which may be denied, no flag display may be installed or affixed in or on the common element, to the extent such limitation is permitted by public law. Any installation of a flag or flagpole is subject to approval by the Architectural Review Authority.

ISSUE #1



MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. 10.13 (p. 34): 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:

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SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Flags. Although public policy encourages the flying of flags as a display of pride and patriotism, without the board's prior written authorization, which may be denied, no flag display may be installed or affixed in or on the common element, to the extent such limitation is permitted by public law. Any installation of a flag or flagpole is subject to approval by the Architectural Review Authority. [STATUTORY FLAG EXEMPTION]: In accordance with the Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L.