AN ACT

relating to unenforceable restrictive covenants affecting residential homes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.020 to read as follows:

Sec. 202.020 Amateur Radio communications.

(A) Definitions.

(1) “Amateur operator,” “amateur radio services, “amateur service, and “amateur station” have the meanings given such terms in the Code of Federal Regulations, 47 C.F.R. Section 97.3.

(2) “Antenna support structure” means a structure used to support one or more antennas for the purpose of engaging in amateur radiocommunications, including a mast, tower or pole.

(3) “Apparatus” and “radio apparatus” means any item, equipment, component, element or structure, including antennas and antenna support structures, used or usable for carrying on amateur radiocommunications or facilitating amateur radiocommunications.

(4) “Owner” has the meaning assigned by Sec. 201.003 and includes a relative or tenant of an owner.

(B) Dedicatory Instrument Provisions.

(1) A property owners association may not, except as provided in this section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting, a property owner from owning, operating, installing or maintaining any radio apparatus on property under the exclusive control of the owner for the purpose of carrying on amateur radiocommunications authorized by the Federal Communications Commission, provided the property owner is so authorized as an amateur operator.

(2) Except with respect to radio apparatus installed on or in a registered motor vehicle, a property owners association may adopt or enforce any of the following dedicatory instrument provisions regarding radio apparatus located exterior to a structure to require that the exterior radio apparatus:

(a) be constructed and installed in compliance with applicable zoning ordinances, easements, setbacks of record, and national or governmental building codes;

(b) be maintained in good condition, and that any deteriorated or structurally unsafe apparatus be repaired, replaced or removed;

(c) if it is other than radio apparatus made of wire, not extend closer than the front setback line from any street on which the dwelling on the lot is sited;

(d) if it is a ground-mounted electrical enclosure, a ground-mounted control enclosure or guy wire anchor, be screened, if the ground-mounted electrical enclosure, ground-mounted control enclosure or guy wire anchors would otherwise be visible from the public street on which the dwelling is sited;

(e) be removed if the property on which it is located is sold to a person who is not authorized to operate the radio apparatus installed on the property.

(C) Enforcement.

(1) A dedicatory instrument provision permitted by Subsection (B), if adopted, must be reasonably applied and enforced.

(2) If a dedicatory instrument requires that the installation of radio apparatus be approved before installation, approval may not be withheld if the proposed installation meets or exceeds the dedicatory instrument provisions permitted by Subsection (B).

(D) Applications.

(1) If a dedicatory instrument provision requires an owner to submit an application for approval of improvements located exterior to a residence, this section does not negate the requirement, but the information required to be submitted as part of the application for the installation of radio apparatus may not be greater or more detailed than an application for any other improvement.

(2) A property owners association may not require an owner to submit an application for prior approval of the installation of radio apparatus, if the requirement for prior approval was not present in the dedicatory instruments of the property owners association as of the date of the owner’s purchase of the property governed by the property owners association.

(3) Applications to a property owners association for a station antenna structure under this act will be deemed approved unless dispositive action is taken within 30 days.

(E) In any hearing, action, or proceeding to determine whether the installation of radio apparatus complies with the requirements of a dedicatory instrument provision permitted by Subsection (d), the party asserting noncompliance bears the burden of proof.

SECTION 2. Section 202.020, Property Code, as added by this Act, applies to a dedicatory instrument, adopted before, on or after the effective date of this Act, and still effective as of the date enforcement is sought.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.