ISSUE #1

a. Other than as required by Colorado law pertaining to energy efficiency measures and renewable energy devices, no structures, including residences, Outbuildings, tennis courts, swimming pools, antennas (except as otherwise permitted in this Declaration), flag poles (except as otherwise permitted by Colorado law), fences, walls, exterior lighting or any other improvements (collectively, "Improvements") shall be constructed, erected, relocated, removed or installed on a Building Lot, nor shall any painting or roofing material (except the same color of paint or the same color and material type of roofing material), alteration or change to the exterior of the Improvements, the exterior of a residence, to a Building Lot or to any structure or any attachment to the exterior of a residence (including siding, solar panels, awnings, patios, decks, shutters, or garage doors) be commenced unless complete plans and specifications shall have been first submitted to and approved in writing by the ARC as may be outlined in the architectural guidelines.

b. The Committee may require that applications of Owners and their plans and specifications show exterior design, height, materials, color, location of the structure or addition to the structure or proposed Improvement (plotted horizontally and vertically), location and size of driveways, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee The location of said building on said Building Lot, the type and construction of the building to be placed thereon, whether a Single Level House or Split Level House, color scheme, plot plan, including the size of the Building Lot, quality materials, shall be in harmony of exterior design with existing structures located in the Subdivision. The location of the building with respect to topography and finished grade elevations, plans for proper drainage of said Building Lot with respect to other Building Lots in the Subdivision, and such other and further information as required and approved by the local building authority shall be submitted to the ARC, but the ARC shall not have any obligation to review or approve such information. Where permitted by Colorado law, the Board may adopt reasonable aesthetic restrictions on the dimensions, placement and external appearance of any energy efficiency Improvement made on any Building Lot.

2. Any Submittal concerning Improvements requiring the approval of the ARC as provided for in Section C-1 above, shall be submitted in writing to and received by the Architectural Review Committee designated herein.

3. Establishment of Architectural Review Committee. The ARC shall consist of at least three Owners who maintain their primary residence within the Subdivision appointed by the Board. Committee members are not subject to term limits, though they must remain active in reviewing decisions or be subjected to replacement. In the event of the death or resignation of any member of the committee, or his or her refusal or inability to act, the Board shall seek to designate a successor, or the Board may perform the duties of the ARC itself. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The Board may remove any member of the ARC from time to time and at any time with or without cause in the sole discertion of the Board.

4. Architectural Criteria. The ARC shall exercise its reasonable judgment to the end that all attachments, Improvements, construction, landscaping and alterations to Improvements on a Building Lot shall comply with the requirements set forth in this Declaration. The approval or consent of the ARC on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon, but not limited to, maintaining the harmony of the exterior appearance of structures with existing neighboring structures, effective location and use of Improvements on nearby Building Lots, preservation of aesthetic beauty, and harmony with the specifications and purposes generally set out in this Declaration. Upon its review of such plans, specifications and submittals, the ARC may require that the applicant(s) reimburse the Board for actual, reasonable, out-of-pocket expense paid by the Association, or on its behalf, to unrelated, third-parties, if any, incurred by it in its review and approval process; provided, however, that no such expenses may exceed $350.00 in the aggregate per Improvement approval process.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT
BOARD & COUNSEL REVIEW

Sec. ARCHITECTURAL REVIEW (p. 6): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas on exclusive-use property is preempted by federal FCC OTARD regulations.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

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 (39.37 inches) 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. Under 47 C.F.R. § 1.4000(a)-(b), associations may only restrict installations on shared/general common elements, dishes exceeding 1 meter in diameter, or where necessary for a specific documented safety objective (§ 1.4000(b)(1)) or a National Register of Historic Places site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:
courts, swimming pools, antennas (except as otherwise permitted in this Declaration), flag poles (except as otherwise permitted by Colorado law), fences, walls, exterior lighting or any other improvements (collectively, "Improvementsj shall be constructed, erected,

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000), subject only to restrictions on shared common elements, dishes exceeding one meter in diameter, documented safety objectives (§ 1.4000(b)(1)), or historic preservation requirements (§ 1.4000(b)(2)).