Article, such approval will not be required and this Article will be deemed to have been fully complied with.

The Architectural Control Board initially shall consist of one (1) member appointed by the Declarant. Up to two (2) additional members may be appointed to the Architectural Control Board by the Declarant at any time, however, there shall never be more than three (3) members on the Architectural Control Board at all times. The Architectural Control Board may appoint an Architectural Review Representative, who shall be a member of the board, to examine submissions by Owners for compliance with these restrictions and covenants. If any of the members of the Architectural Control Board shall resign, become unable to serve or die, then the remaining member(s) shall appoint a successor member(s) to the Architectural Control Board. Neither the Architectural Control Board nor the Architectural Review representative, shall receive any compensation for services rendered and performed hereunder, provided, however: that the Architectural Control Board shall have the right to charge a modest fee for review of plans submitted in accordance with the Article, such fee reasonably calculated to reimburse the Architectural Control Board only for its actual out-of-pocket expenses (including employment of any professional advisors).

ARTICLE IV
Use Restrictions

Section 1. All Lots shall be used and occupied solely for residential purposes and shall not be used for commercial trade, public amusement, public entertainment or business purposes of any kind or character, other than a home office specifically authorized by the Architectural Control Board or the Architectural Review Representative; provided, however, that in no event shall any such permitted home office be one where clients, customers, sales persons or others would routinely visit. No structure shall be erected, altered, placed or permitted to remain on any residential Lot other than one single-family structure. A detached garage may be allowed provided it conforms to the architectural design of the residential structure. A servants room, tool room and/or laundry room may be attached to the residential structure or garage. Notwithstanding the foregoing, any duly licensed builder who is active in constructing residences for sale within the Development may construct residences within the Subdivision, which may be used by the builder or his representative as a model home for demonstrating to the public lots or homes for sale within the Development.

Section 2. All residential structures erected or constructed on any Lot shall not exceed three stories in height and shall contain a minimum of 1300 square feet. Residential structures with more than one story shall have a minimum ground floor area of at least 400 square feet. All residential buildings shall have set back setback requirements, in accordance to the setbacks shown on the recorded plat. Waiver of any of the preceding fixed setback requirements can be obtained for unintentional violations that do not exceed 10% of the particular setback distance in question. Additional waivers of the setback requirements of up to 5 feet (or more in the case of cul-de-sac and nonrectangular Lots) may be granted in writing by the Architectural Control Board or the Architectural Review Representatives. and/or pursuant to Santa Rosa County requirements.

Section 3. The minimum square foot living area of proposed building and structures or additions and enlargements thereto shall be determined by multiplying the outside length and width footprint dimensions of each story of the building or structure, except that garages, open porches, patios and terraces shall not be taken into account in calculating the minimum square foot living area required.

ISSUE #1

Section 4. No outside antennas, poles, masts, towers, or the like shall be erected on any Lot within the subdivision. Satellite-receiving dishes are allowed; however, any such satellite-receiving dish shall be fully concealed and shall not be visible from any street.

MARKUP #1 ->

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

Sec. 4. (p. 3): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas 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 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:
No outside antennas, poles, masts, towers, or the like shall be erected on any Lot within the subdivision. Satellite-receiving dishes are allowed; however, any such satellite-receiving dish shall be fully concealed and shall not be visible from any street. OR BK PG Section S, All dwellings, yards (including any area located in road right-of-ways between the actual lot line and paved surface of such road), drives, sidewalks, and landscaping at each lot must be maintained at all times.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
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. § 1.4000).