ISSUE #1

Section 1: [Article II, Section 12] Solar Collectors and Parapet Screening Requirements

All roof-mounted solar panels must be installed flat behind a Pueblo-style parapet wall so that no portion of the solar array, racking, or tilt frame is visible from any road or neighboring Lot. Ground-mounted solar arrays are prohibited if visible from any adjacent property.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE — BOARD & COUNSEL REVIEW

Sec. 1 (p. 1): Architectural covenant prohibits or effectively prohibits the installation or use of solar collectors in violation of NMSA 1978, § 3-18-32(B) and § 47-3-4.

Statutory / Legal Reference: NMSA 1978, § 3-18-32(B) & § 47-3-4

Statutory Comparison: Under NMSA 1978, § 3-18-32(B) and the New Mexico Solar Rights Act (§ 47-3-4), a covenant, restriction, or condition contained in a deed, contract, security agreement, or other instrument affecting the transfer or sale of, or any interest in, real property that effectively prohibits the installation or use of a solar collector is void and unenforceable.

CURRENT WORDING IN DOCUMENT:

[Article II, Section 12] Solar Collectors and Parapet Screening Requirements All roof-mounted solar panels must be installed flat behind a Pueblo-style parapet wall so that no portion of the solar array, racking, or tilt frame is visible from any road or neighboring Lot. Ground-mounted solar arrays are prohibited if visible from any adjacent property.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to NMSA 1978, § 3-18-32(B) and § 47-3-4, any covenant, restriction, or rule that effectively prohibits the installation or use of a rooftop or lot-mounted solar collector is void and unenforceable.