

ISSUE #1

MARKUP #1 ->

Section 1: [Declaration of Restrictions of Geist Harbours, Section 12 & Architectural Guidelines] Architectural Committee

No solar panels, collectors, or rooftop mechanical apparatus shall be installed on any roof elevation facing a street, cul-de-sac, or the waters of Geist Reservoir. The Architectural Control Committee may deny any solar application that alters the uniform roofline appearance of the neighborhood.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. Declaration of Restrictions of Geist Harbours, Section 12 & Architectural Guidelines (p. 1): Clause imposes an absolute ban on solar power devices without recognizing the statutory homeowner petition and approval pathway under Ind. Code § 32-25.5-3.5 (HEA 1196).

Statutory / Legal Reference: Ind. Code §§ 32-25.5-3.5-1 to 32-25.5-3.5-5 (HEA 1196)
Statutory Comparison: Under Ind. Code § 32-25.5-3.5-5 (enacted by HEA 1196), even if a governing document purports to prohibit solar power devices or requires architectural approval, a homeowner may petition other association members and, upon presenting the signatures required by § 32-25.5-3.5-5(c) (65% of members or the declaration's amendment threshold, whichever is less), the board may not deny the request to install a rooftop solar power device.

CURRENT WORDING IN DOCUMENT:
[Declaration of Restrictions of Geist Harbours, Section 12 & Architectural Guidelines]
Architectural Committee Veto Over Rooftop Solar Panels Visible From Geist Reservoir or Streets - No solar panels, collectors, or rooftop mechanical apparatus shall be installed on any roof elevation facing a street, cul-de-sac, or the waters of Geist Reservoir. The Architectural Control Committee may deny any solar application that alters the uniform roofline appearance of the neighborhood.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Notwithstanding anything herein to the contrary, all requests to install a solar power device shall be evaluated in accordance with Ind. Code § 32-25.5-3.5 (HEA 1196), and the Board shall not deny a qualifying solar power device installation supported by the homeowner petition threshold set forth in Ind. Code § 32-25.5-3.5-5.