Section 1: [1.1] Definitions and Dynamic Statutory Incorporation

This Declaration of Covenants, Conditions, and Restrictions is governed by the applicable State Community Association Act and Nonprofit Corporation Act, as amended from time to time. In the event of any conflict between a provision of these governing documents and mandatory state or federal statute, the controlling statute shall govern automatically.

Section 2: [2.1] Open Board Meetings and Member Notice

All meetings of the Board of Directors shall be open to all members except for executive sessions permitted by law for pending litigation, personnel matters, or contract negotiations. Written notice and agenda of all Board meetings shall be posted and delivered to members at least 14 days in advance in full compliance with statutory notice windows.

Section 3: [3.1] Official Records Inspection and Portal Access

Official records of the Association shall be maintained within the state and made available for inspection and copying by any parcel owner or authorized representative within 10 business days after receipt of a written request, and published on the secure member portal in accordance with statutory requirements.

ISSUE #1

Section 4: [4.1] Protected Homeowner Rights (Flags, Solar, OTARD Antennas & Assistance Animals)

Nothing in this Declaration or the Rules shall prohibit a homeowner from displaying the United States flag or official state/armed forces flags in accordance with 4 U.S.C. § 5, installing rooftop solar collectors or FCC-protected OTARD antennas (47 C.F.R. § 1.4000), parking personal or first-responder vehicles in driveways where protected by law, or keeping a qualified assistance animal under the Fair Housing Act (42 U.S.C. § 3604).

Section 5: [5.1] Fining and Suspension Due Process

The Board of Directors may not impose a fine or suspension unless the parcel owner is provided at least 14 days written notice and an opportunity for a fair hearing before an independent Fining and Enforcement Committee of at least three members who are not officers, directors, or employees of the Association, nor relatives of such persons.

Section 6: [6.1] Reserve Accounts and Annual Financial Reporting

The Board shall prepare and distribute an annual budget and reserve funding schedule to all members at least 30 days prior to the fiscal year, maintaining statutory structural and capital reserve accounts as required by controlling law.

MARKUP #1 ->

MARKUP #1 · HIGH LEGAL & ENFORCEMENT RISK — BOARD & COUNSEL REVIEW

Sec. 4.1 (p. 1): Clause prohibits or arbitrarily bans residential solar panels/collectors in conflict with Kentucky solar access protections and covenant governance standards (KRS § 381.200 & KRS § 381.790).

Statutory / Legal Reference: KRS § 381.200 & KRS § 381.790

Statutory Comparison: Under KRS § 381.200 (protecting solar easements for the exposure of solar energy systems to direct sunlight) and KRS § 381.790 (Kentucky Planned Communities Act), Kentucky statutory policy favors residential solar energy access, and associations may not enforce unrecorded or arbitrary prohibitions on solar collectors that conflict with recorded declaration rights or solar access easements.

CURRENT WORDING IN DOCUMENT:
Protected Homeowner Rights (Flags, Solar, OTARD Antennas & Assistance Animals) Nothing in this Declaration or the Rules shall prohibit a homeowner from displaying the United States flag or official state/armed forces flags in accordance with 4 U.S.C. § 5, installing rooftop solar collectors or FCC-protected OTARD antennas (47 C.F.R. § 1.4000), parking personal or first-responder vehicles in driveways where protected by law, or keeping a qualified assistance animal under the Fair Housing Act (42 U.S.C. § 3604).

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Pursuant to KRS § 381.200 and KRS § 381.790, Owners may install residential solar energy systems in accordance with reasonable, objective architectural guidelines that do not impair solar collector efficiency or prohibit access to direct sunlight.