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MARKUP #1 ->

ARTICLE VIII
MAINTENANCE BY OWNER

Each Owner shall maintain his residence and lot in good repair. The yards and landscaping on all improved lots shall be neatly and attractively maintained, and shall be cultivated and planted to the extent required to maintain an appearance in harmony with other improved lots in the Property. During prolonged absence, an Owner shall arrange for the continued care and upkeep of his lot. In the event a lot Owner fails to maintain his lot and residence in good condition and repair or in the event an Owner fails to landscape his lot as required by Section 5.13 of Article V, the Architectural Committee may have said lot and residence landscaped, cleaned and repaired and may charge lot owner for said work in accordance with the provisions of said Section. An Owner shall not allow a condition to exist on his lot which will adversely affect any other lots and residences or other Owners. Any repainting or redecorating of the exterior surfaces of a residence which alters the original appearance of the residence will require the prior approval of the Architectural Committee.

ARTICLE IX
EASEMENTS

Section 9.1. Owner's Easements of Enjoyment:

(A) Every Member, and any person residing with such Member, shall have a right and easement of enjoyment in and to the Common Area which shall by appurtenant to and shall pass with the title to every Lot and Parcel, subject to the following provisions:

(i) The right of the Association to charge reasonable admission and other fees for the use of any recreational or other facility situated upon the Common Area, including, but not limited to, any recreational vehicle storage area located upon the Common Area, the Association shall also have the right to restrict the use of such recreational vehicle storage area to only those Owners, Lessees or Residents who do not have such a recreational vehicle storage area available to them through a Neighborhood Association. The Association may permit the use of any recreational vehicle storage area situated upon the Common Area by persons who are not Members of the Association provided the Association charges such persons a reasonable admission fee or user fee for the use of such recreational vehicle storage area.

(ii) The right of the Association to suspend the voting rights and right to the use of the recreational facilities, if any, located upon Common Area by any Member (a) for any period during which any Assessment against his Lot or Parcel remains delinquent; (b) for a period not to exceed sixty (60) days for any other infraction of the Project Documents, and (c) for successive sixty-day (60) periods if any such infraction is not corrected during any prior sixty-day (60) suspension period.

(iii) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 9.1. (p. 23): Voting rights suspension clause lacks Arizona statutory notice, hearing due process, or delinquency safeguards (A.R.S. §§ 33-1803, 33-1242 (21-Day Certified Mail Notice & Hearing)).

Statutory / Legal Reference: A.R.S. §§ 33-1803, 33-1242 (21-Day Certified Mail Notice & Hearing); A.R.S. §§ 33-1801 to 33-1819 (Arizona Planned Communities Act); A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act)

Statutory Comparison: Under Arizona community association and nonprofit corporation statutes (A.R.S. §§ 33-1803, 33-1242 (21-Day Certified Mail Notice & Hearing); A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act)), member voting rights are a fundamental corporate governance right and may not be summarily suspended without strict compliance with statutory delinquency thresholds, prior written notice, and an opportunity to be heard.

CURRENT WORDING IN DOCUMENT:

(ii) The right of the Association to suspend the voting rights and right to the use of the recreational facilities, if any, located upon Common Area by any Member (a) for any period during which any Assessment against his Lot or Parcel remains delinquent; (b) for a

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that any suspension of voting or membership privileges (to the extent permitted by Arizona law) shall require prior written notice to the Owner, a reasonable opportunity to be heard, and strict compliance with A.R.S. §§ 33-1803, 33-1242 (21-Day Certified Mail Notice & Hearing) and A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act).

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