Section 4.4(f) - Sample Provision Excerpt (Public Preview)

(i) Suspension of Voting Rights.
The Board shall
have the authority to suspend the voting rights of any
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Delegate District, for any period during which the
payment

ISSUE #1

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MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING
BOARD & COUNSEL REVIEW

Sec. 4.4(f) (p. 19): Election or voting provision conflicts with California Civil Code §§ 5100 - 5145 requirements for secret ballots, independent Inspector of Elections, non-suspension of member voting rights (§ 5105(g)(1)), or AB 2159 electronic voting safeguards.

Statutory / Legal Reference: Cal. Civ. Code §§ 5100, 5105, 5110 & 5115 (SB 323 / AB 2159)

Statutory Comparison: Under Cal. Civ. Code §§ 5100 - 5115, elections regarding directors, assessments legally requiring a vote, governing document amendments, and grants of exclusive use of common area must be conducted by secret ballot (double-envelope paper ballot or compliant electronic secret ballot under AB 2159, except that electronic secret ballots remain prohibited for votes on regular or special assessments...

CURRENT WORDING IN DOCUMENT:
(i) Suspension of Voting Rights. The Board shall have the authority to suspend the voting rights of any Member to vote in any meeting of the Members in any Delegate District, for any period during which the payment of any Common, Capital Improvement or Reconstruction Assessments against such Member and the real property owned by such member remains...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Pursuant to California Civil Code §§ 5100 - 5145, all elections of directors, recall elections, governing document amendments, and assessment votes shall be conducted by secret ballot overseen by one (1) or three (3) independent Inspectors of Elections meeting the independence requirements of Civil Code § 5110.