

by obtaining written consent of the majority of the then Lot owners (including the owners of lots within Other Land if applicable). No charge shall be imposed by the Committee for consideration of the submitted plans.

ARTICLE V - ASSESSMENTS

a. *Purpose of Assessments.* Subject to the limitation set forth below, the Lot Owners' Association may assess any amounts necessary to pay any expenses of any nature that it may incur in performing any actions permitted or required under this declaration or its Articles of Incorporation, Bylaws or Rules and Regulations, including but not limited to, operating expenses and the capital costs of performing its functions.

b. *Obligations for Assessments.* Declarant, for each site it owns, and for each Lot it owns and for each Lot contained within other property which carries with it membership in the Lot Owners Association, hereby covenants for itself and its successors to pay to the Lot Owners Association all assessments and the charges, fines, liquidated damages, penalties or other amounts, to be levied, fixed, established and collected as set forth in these C C & R's, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association, as from time to time are in force and effect.

c. *Amount of Regular Assessments.* The regular assessments for each Lot and each Lot contained within Other Land which may carry with it membership within the Association shall be equal. The amount shall be determined by the Board of Directors annually and shall be due on a date determined by the Board of Directors.

d. *Amount of Extraordinary Assessments.* Extraordinary assessments may be imposed by the Board of Directors only with the written approval of the Owners of 2/3 of the Lots affected by such assessments.

e. *Collection.* If any amount shall not be paid within ten (10) days after it shall it have become due and payable, then the Board of Directors may assess a "late charge" thereon in an amount not exceeding \$100.00 to cover the extra expenses involved in handling such delinquent payment. In addition, each such amount shall bear interest at the rate of 18% per annum from the date it becomes due and payable if not paid within ten (10) days after such date. In addition, any such amount shall become a lien against the Lot, subject only to liens for real property taxes and recorded encumbrances. The lien may be foreclosed in the manner for foreclosing of either (1) mechanics or materialmen liens or (2) judicial mortgage foreclosure in the State of Colorado, and the owner shall be required to pay the cost and expenses of such proceedings including, but not limited to, reasonable attorney's fees and court costs.

ARTICLE VI - SUBORDINATION

No breach of any of the conditions shall defeat or render invalid the lien

MARKUP #1 ->

Sec. N/A (p. 6): Enforcement, fining, interest, or foreclosure provision violates Colorado HB 22-1137 (C.R.S. § 38-33.3-209.5) limits on cure periods, \$500 fine cap, 8% interest cap, or prohibition on foreclosing fine liens.

Statutory / Legal Reference: C.R.S. §§ 38-33.3-209.5 & 38-33.3-316 (HB 22-1137)

Statutory Comparison: Under C.R.S. § 38-33.3-209.5 (as amended by HB 22-1137), for covenant violations that do not threaten public health or safety, the association must: (1) notify the unit owner by certified mail, return receipt requested; (2) grant two consecutive 30-day periods to cure before turning the matter over to an attorney or legal action; (3) cap total fines for a particular covenant violation at \$500; (4) cap delinquency interest at 8% per annum; and (5) refrain from foreclosing on any assessment lien consisting solely of fines, fees, or collection costs.

CURRENT WORDING IN DOCUMENT:

In addition, any such amount shall become a lien against the Lot, subject only to liens for real property taxes and recorded encumbrances. The lien may be foreclosed in the manner for foreclosing of either (1) mechanics or materialmen liens or (2) judicial mortgage foreclosure in the State of Colorado, and the owner shall be required to pay the cost and expenses of such proceedings including, but not limited to, reasonable attorney's fees and court

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to C.R.S. §§ 38-33.3-209.5 and 38-33.3-316 (HB 22-1137), for any covenant violation that does not threaten public health or safety: (a) the Association shall send written notice via certified mail, return receipt requested, providing the owner two (2) consecutive thirty (30) day cure periods; (b) the total amount of fines imposed for any single non-health/safety violation shall not exceed Five Hundred Dollars (\$500.00); (c) delinquent assessments shall bear interest at no more than eight percent (8%) per annum; and (d) the Association shall not foreclose an assessment lien consisting solely of fines, collection costs, or attorney fees.