

improvements erected or to be erected thereon.

ARTICLE 3. MEMBERSHIP AND VOTING

Section 3.1 Membership and Voting. Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot within the Community shall be the sole qualification for membership. Each Lot shall be entitled to cast one vote. Fractional and cumulative voting are prohibited.

Section 3.2 Suspension of Voting Rights and Use Rights. During any period in which an Owner shall be in default in the payment of any Common Expense Assessment, including interest, fines, late fees, attorney fees and costs, levied by the Association, the voting rights and right to use of the recreational facilities of the Owner shall be deemed suspended by the Board of Directors, without notice or hearing, until the Assessment has been paid. Voting rights and use rights of an Owner may also be suspended, after notice and the opportunity for a hearing, during any period of violation of any other provision of the Governing Documents.

Section 3.3 Member Voting. (a) At all meetings of Members, each Member eligible to vote may vote in person or by proxy. (b) If only one of several Owners of a Lot is present at a meeting of the Association, the Owner present is entitled to cast the vote allocated to such Lot. (c) If more than one of the Owners is present, the vote allocated to the Lot may be cast only in accordance with the agreement of a majority of those Owners. Majority agreement exists if any one of the Owners casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by another Owner of the Lot. In the event of disagreement between or among co-Owners and an attempt by two or more of them to cast such vote or votes, such vote or votes shall not be counted. (d) The vote of a corporation or business trust may be cast by any officer of that corporation or business trust in the absence of express notice of the designation of a specific person by the Board of Directors or bylaws of the owning corporation or business trust. (e) The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. (f) The chair of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership or business trust Owner is qualified to vote. (g) Votes allocated to Lots owned by the Association may be cast by the Board.

Section 3.4 Transfer of Membership. Transfers of membership shall be made on the books of the Association only upon presentation of evidence, satisfactory to the Association, of the transfer of ownership of the Lot to which the membership is appurtenant.

ARTICLE 4. MEETINGS OF MEMBERS

Section 4.1 Annual Meetings. An annual meeting of the Members shall be held during each of the Association's fiscal years, at such time of the year and date as determined by the Board. At these meetings, the directors shall be elected by the Members, in accordance with the

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 3.2 (p. 8): Voting rights suspension clause lacks Colorado statutory notice, hearing due process, or delinquency safeguards (C.R.S. § 38-33.3-209.5 (HB 22-1137 \$500 Non-Health/Safety Cap & Cure Notice)).

Statutory / Legal Reference: C.R.S. § 38-33.3-209.5 (HB 22-1137 \$500 Non-Health/Safety Cap & Cure Notice); Colo. Rev. Stat. §§ 38-33.3-101 to 38-33.3-402 (CCIOA); Colo. Rev. Stat. §§ 7-121-101 to 7-137-301 (Colorado Revised Nonprofit...

Statutory Comparison: Under Colorado community association and nonprofit corporation statutes (C.R.S. § 38-33.3-209.5 (HB 22-1137 \$500 Non-Health/Safety Cap & Cure Notice); Colo. Rev. Stat. §§ 7-121-101 to 7-137-301 (Colorado Revised Nonprofit Corp. 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:

interest, fines, late fees, attorney fees and costs, levied by the Association, the voting rights and right to use of the recreational facilities of the Owner shall be deemed suspended by the Board of Directors, without notice or hearing, until the Assessment has been paid. Voting rights and use rights of an Owner may also be suspended, after notice and the opportunity for a hearing, during any period of violation of any other provision of the Governing Documents.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that any suspension of voting or membership privileges (to the extent permitted by Colorado law) shall require prior written notice to the Owner, a reasonable opportunity to be heard, and strict compliance with C.R.S. § 38-33.3-209.5 (HB 22-1137 \$500 Non-Health/Safety Cap & Cure Notice) and Colo. Rev. Stat. §§ 7-121-101 to 7-137-301 (Colorado Revised Nonprofit Corp. Act).

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