

Village East Home Owners’ Association
Bylaws & Convenents

Section 5 “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6 “Declarant” shall mean and refer to Bartran Homes, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II PROPERTY RIGHTS

Section 1 Section 1. Owners’ Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- ISSUE #1
- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period not to exceed 60 days for any infraction of its published rules and regulations;

(c) 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 such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2 Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1 Every owner of a lot, which is subject to assessment, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment.

Section 2 The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds and interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE BOARD & COUNSEL REVIEW

Sec. 1 (p. 11): 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:
(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period not to exceed 60 days for any infraction of its published rules and regulations;
(c) 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 such conditions as may be agreed to by the members.

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).