

DRAFT FOR 4/5/93 MEETING

Section 3.5 - Proxies. At all meetings of Members, each Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of his Lot.

ARTICLE IV
BOARD OF DIRECTORS

Section 4.1 - Number. The affairs of this Association shall be managed by a Board of at least three (3) and not more than nine (9) Directors, all of whom shall be Members of the Association.

Section 4.2 - Election Term of Office. At the annual meeting, nominations and elections to the Board of Directors shall be held. The Members shall elect one third (1/3) of the Board of Directors (e.g. three members), each to serve for a three year term, so that two thirds (2/3) of the Board of Directors remains in office. The newly elected members shall take office at the next meeting of the Board of Directors.

ISSUE #1
Section 4.3 - Removal. Any Director may be removed from the Board, with or without cause, by a two-thirds vote of the Members of the Association at an annual or special meeting of the Members. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

Section 4.4 - Compensation. No Director shall receive compensation for any service he may render to the Association as a Director. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties as a director.

Section 4.5 - Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE V
NOMINATION AND ELECTION OF DIRECTORS

Section 5.1 - Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting.

MARKUP #1 ->

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

Sec. 4.3 (p. 6): Director recall/removal clause requires a supermajority (>50% + 1) vote or "for cause" justification, conflicting with Florida's mandatory majority recall right.

Statutory / Legal Reference: Fla. Stat. § 720.303(10) & F.A.C. Rule 61B-80.101

Statutory Comparison: Under Fla. Stat. § 720.303(10) & F.A.C. Rule 61B-80.101, any member of the board of directors may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority (50% plus one) of all voting interests. Governing document provisions requiring a 67%, 75%, or other supermajority threshold or restricting recall to "for cause" grounds are void and unenforceable under Florida law and DBPR recall arbitration precedent.

CURRENT WORDING IN DOCUMENT:

Removal. Any Director may be removed from the Board, with or without cause, by a two-thirds vote of the Members of the Association at an annual or special meeting of the Members. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 720.303(10) & F.A.C. Rule 61B-80.101, any member of the Board of Directors may be recalled and removed from office with or without cause by the vote or written recall agreement of a simple majority of all voting interests, in accordance with the recall and DBPR arbitration procedures set forth in the Florida Statutes and Florida Administrative Code.