

Section 1: [Article I, Section 1.1] Definitions, Purpose, and Governing Act

This Declaration of Covenants, Conditions, and Restrictions (or Declaration of Condominium) establishes the governance framework, maintenance obligations, and property covenants for all Lots and Units within the Association in the State of Florida.

Section 2: [Article II, Section 2.1] Membership and Voting Rights

Every record Owner of a fee or undivided fee interest in any Lot or Unit shall be a mandatory Member of the Association and shall be entitled to one (1) vote per Lot or Unit in all Association affairs.

Section 3: [Article V, Section 5.3] Official Records Inspection and 10-Business-Day Access

The Official Records of the Condominium Association shall be maintained within the State of Florida and shall be open to inspection by any Association member or the authorized representative of such member at all reasonable times. Pursuant to Fla. Stat. § 718.111(12)(b)-(c), the right to inspect the records includes the right to make or obtain copies, and the records must be made available within ten (10) working days after receipt of a written request by the Board or its designee.

Section 4: [Article X, Section 10.2] Assessments, Late Fees, Interest, and Notice of Intent to Lien

Assessments and installments on them which are not paid when due bear interest at the rate of eighteen percent (18%) per annum from the due date until paid, plus an administrative late fee not to exceed the greater of \$25.00 or five percent (5%) of each delinquent installment pursuant to Fla. Stat. § 718.116(3). No claim of lien may be recorded until forty-five (45) days after the Association has delivered a written Notice of Late Assessment (30 days) and a written Notice of Intent to Record a Claim of Lien (45 days) in compliance with Fla. Stat. § 718.121.

Section 5: [Article III, Section 3.6] Limited Proxies and Prohibition on General Proxies

Pursuant to Fla. Stat. § 718.112(2)(b)2, Unit Owners may not vote by general proxy, except to establish a quorum or for nonsubstantive matters for which a limited proxy is not required. Limited proxies conforming to the form adopted by the Division of Florida Condominiums, Timeshares, and Mobile Homes shall be used for votes taken to waive or reduce reserves, amend the Declaration or Bylaws, or for any other matter for which Chapter 718 requires or permits a vote of the Unit Owners.

Section 6: [Article XI, Section 11.4] Material Alterations to Common Elements

There shall be no material alteration or substantial additions to the Common Elements or to real property which is Association property, except as provided in this Declaration. Pursuant to Fla. Stat. § 718.113(2)(a), any material alteration or substantial addition not otherwise authorized herein requires approval by not less than seventy-five percent (75%) of the total voting interests of the Association, except for necessary maintenance or code-mandated hurricane protection.

MARKUP #1 ->

MARKUP #1 · OUTDATED STATUTE LOCK

BOARD & COUNSEL REVIEW

Sec. Article III, Section 3.6 (p. 1): Declaration references Florida Statutes without express Kaufman language ("as amended from time to time"), risking unconstitutional impairment of contract challenges upon statutory changes.

Statutory / Legal Reference: Kaufman v. Shere, 347 So. 2d 627 (Fla. 3d DCA 1977); Cohn v. Grand Condo. Ass'n, 62 So. 3d 1120 (Fla. 2011)

Statutory Comparison: Under Florida Supreme Court precedent (Cohn), legislative amendments that impair vested contract rights cannot be applied retroactively to an existing community unless the Declaration contains express language adopting the statute "as amended from time to time" (the Kaufman doctrine).

CURRENT WORDING IN DOCUMENT:

Mobile Homes shall be used for votes taken to waive or reduce reserves, amend the Declaration or Bylaws, or for any other matter for which Chapter 718 requires or permits a vote of the Unit Owners.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

In accordance with Kaufman v. Shere, amend the governing law clause to read: "...governed by Chapter 718 [or 720], Florida Statutes, as the same exists on the date hereof and as the same may be amended from time to time."

ISSUE #1