

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] Delinquent Assessment Interest, Late Fees, and Estoppel Certificates

Delinquent assessments owed to PORTOVITA HOMEOWNERS ASSOCIATION, INC. not paid within 10 days shall accrue interest at 24% per annum and incur a late charge of \$65.00 or 10% of each installment, and the Association may record a claim of lien

and foreclose the lien with attorney's fees without further notice. Estoppel certificates shall be issued within 20 business days of request for a non-refundable fee of \$425.00.

Section 4: [Article III, Section 3.9] Member Meeting Notice and Recording Prohibition

Annual and special meetings of the Members of PORTOVITA HOMEOWNERS ASSOCIATION, INC. may be called upon 7 days' notice. Video recording of board or member meetings is prohibited, owners may not record proceedings, and nominations from the floor are prohibited at all election meetings.

Section 5: [Article VIII, Section 8.3] Driveway Parking and Prohibited Pickup Trucks

No pickup trucks, work vans, or commercial vehicles are permitted to be parked on any Lot driveway or street within PORTOVITA HOMEOWNERS ASSOCIATION, INC. overnight. All pickup trucks are prohibited unless kept at all times completely inside a closed garage.

Section 6: [Article XI, Section 11.2] Covenant Enforcement Fines and Lien Rights

At PORTOVITA HOMEOWNERS ASSOCIATION, INC., the Board of Directors may unilaterally impose a fine of \$100 per day for any violation of the Governing Documents upon 5 days notice without prior written notice or hearing. Any unpaid fine of \$250 or more shall become a continuing lien against the Lot enforceable by foreclosure.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. Article V, Section 5.3 (p. 1): Assessment delinquency interest rate (24% per annum) exceeds the 18% statutory maximum.

Statutory / Legal Reference: Fla. Stat. § 718.116(3), (5)-(6) & § 718.121(5)-(6)

Statutory Comparison: Under Fla. Stat. § 718.116(3), (5)-(6) & § 718.121(5)-(6), delinquent assessments may not bear interest exceeding 18% per year, administrative late fees may not exceed the greater of \$25 or 5% of each delinquent installment, and an association may not require payment of attorney fees or record/foreclose a claim of lien unless it first delivers: (1) a written 30-day Notice of Late Assessment at no cost to the owner, (2) a 45-day written Notice of Intent to Record a Claim of Lien, and (3) a 45-day written Notice of Intent to Foreclose.

CURRENT WORDING IN DOCUMENT:

Delinquent Assessment Interest, Late Fees, and Estoppel Certificates - Delinquent assessments owed to PORTOVITA HOMEOWNERS ASSOCIATION, INC. not paid within 10 days shall accrue interest at 24% per annum and incur a late charge of \$65.00 or 10% of each installment, and the Association may record a claim of lien and foreclose the lien with attorney's fees without further notice. Estoppel certificates shall be issued within 20 business days of request for a non-refundable fee of \$425.00.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding the foregoing, interest on delinquent assessments shall not exceed eighteen percent (18%) per annum, and any administrative late fee shall not exceed the greater of \$25.00 or five percent (5%) of each delinquent installment. No attorney's fees may be charged, nor may any claim of lien be recorded or foreclosed, until the Association has delivered: (a) a written 30-day Notice of Late Assessment free of attorney's fees, (b) a 45-day written Notice of Intent to Record a Claim of Lien, and (c) a 45-day written Notice of Intent to Foreclose in strict accordance with Fla. Stat. § 718.116(3), (5)-(6) & § 718.121(5)-(6).

ISSUE #1