

MARKUP #1 ->

more than one person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

ARTICLE V

PROPERTY RIGHTS

Section 1. Easements of Enjoyment. Every Member shall have a right and easement to use the Common Area; and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- ISSUE #1
- (a) The right of the Association to limit the number of guests of Members;
 - (b) ~~The right of the Association to charge reasonable admission and other fees for the use of any recreational facility located on the Common Area;~~
 - (c) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and recreational facilities, if any, and in aid thereof to mortgage said property, and the right of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;
 - (d) The right of the Association to suspend the voting rights and right to use of the recreational facilities, if any, by a Member for any period during which any assessment against such Member’s Lot remains unpaid; and for a period not to exceed ninety days for any infraction of its published rules, regulations and resolutions;
 - (e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public body, or public utility company 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 Members entitled to cast two-thirds of the votes of the membership has been recorded, agreeing to such dedication or transfer after written notice of the proposed action is sent to every Member not less than 30 days nor more than 60 days in advance of the proposed action; and
 - (f) The right of the Association to assign to individual owners, or group of owners, the exclusive use of certain parking spaces convenient to their respective lots, and to regulate the use thereof.

Section 2. Delegation of Use. Any Member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of such Member’s family, tenants, contract purchasers who reside on the property and guests (subject to the limitations set forth in Sections 1(a) above).

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 1. (p. 5): Voting rights suspension clause lacks Virginia statutory notice, hearing due process, or delinquency safeguards (Va. Code §§ 55.1-1819, 55.1-1959 (\$50 Single / \$10 Per-Diem Cap & 14-Day Certified Notice) & 18 VAC 48-70).

Statutory / Legal Reference: Va. Code §§ 55.1-1819, 55.1-1959 (\$50 Single / \$10 Per-Diem Cap & 14-Day Certified Notice) & 18 VAC 48-70; Va. Code Ann. §§ 55.1-1800 to 55.1-1836 (Virginia Property Owners' Association Act) & 18 VAC 48-50 / 48-60 /...

Statutory Comparison: Under Virginia community association and nonprofit corporation statutes (Va. Code §§ 55.1-1819, 55.1-1959 (\$50 Single / \$10 Per-Diem Cap & 14-Day Certified Notice) & 18 VAC 48-70; Va. Code Ann. §§ 13.1-801 to 13.1-946 (Virginia Nonstock Corporation 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:

(d) The right of the Association to suspend the voting rights and right to use of the recreational facilities, if any, by a Member for any period during which any assessment against such Member's Lot remains unpaid; and for a period not to exceed ninety days for any infraction of its published rules, regulations and resolutions;

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public body, or public utility company 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 Virginia law) shall require prior written notice to the Owner, a reasonable opportunity to be heard, and strict compliance with Va. Code §§ 55.1-1819, 55.1-1959 (\$50 Single / \$10 Per-Diem Cap & 14-Day Certified Notice) & 18 VAC 48-70 and Va. Code Ann. §§ 13.1-801 to 13.1-946 (Virginia Nonstock Corporation Act).