



**Governing Documents DRAFTS review – Version dated March 1, 2019**  
**Board of Director comments**

**March 15, 2019**

**General Comments:**

**Jeff Connors: - Board Treasurer**

It would be helpful to understand which changes are mandated by law versus changes by the committee.

**Suzan Knisley - Director**

Jeff has a very good point to discern the difference between legal mandate and member recommendations as it is in our governing documents that the “Board of Directors” can make changes in the governing documents that apply to law.

The Board needs to review the legal interpretation of this provision.

**Bylaws Specific comments:**

**Jennifer Jennings – Board President - Comments on the Bylaws**

Pg. 2 - are we incorporating the “new” purchases such as Euer Valley and McGlashan Springs? Can we, by a Bylaws change or CCR change incorporate that land into Common Area? Also, Common Facilities is defined as including trails - does it also include the TD land surrounding the trails?

Pg. 4 – (ii) – can we include notice by email blasts and prominently posting on the Association website?

Pg. 9 - 3.03 Multiple Ownership of Residential Separate Interests – Disagree with statement that all Owners shall have equal rights as members to enjoy the common areas/facilities – limit members/lot

Also, we need the multiple owners to designate on member for voting – as written, anyone could vote unless sole designated – we need to have designation in advance

Under what theory should we be able to account multiple ballots for purposes of quorum from one lot? Also noted in (h) (pg. 16)

We need to make it clear that there is one “membership” per lot for purposes of voting; multiple memberships per lot per amenity access policy

Pg. 15 – Balloting Time Requirements – do we have flexibility to extend the time fixed for return of the ballot without noting that on the original ballot materials? Can we keep extending for the





CC&R approval? I am concerned that if we put ballot time extensions on the material, members will just wait until the last day.

Pg. 16 - Using (j) could a Board in the future implement electronic voting if state law permits it? To make it clearer, should we delete “not inconsistent with the provisions of this Section”?

Pg. 17 – is publication in the July TD News sufficient to satisfy the 15-day General Notice provision regarding election results?

Pg. 19 (e) notes voting by proxy, but such voting is prohibited by (e) on pg. 12.

Pg. 21 (e)(i) has a mistake – sending notice to the members at the Assoc. offices? Do we need to address this? Presumably we have a mailing address for the member assessment.

Pg. 22 – CC 5605 requires more than 50 percent as the quorum = add “more than”. Don’t include the example

Pg. 25 –Section 6.01 I am not sure that I agree with requiring residency as a qualification. Adding residency seems unjustified. To answer the question - it is my understanding that commercial owners/tenants are general public with regard to amenities

Pg. 26 – amenity rules are adopted by the Board and are generally not in the Governing Doc. I would modify the language that is struck out in the last line of Sec. 6.03 to refer to “Association rules”

Pg. 30 (d) Nominating Committee – I would delete the Nominating Committee, keep the Elections Committee (7.04 © on pg. 29) and add: “to assist the Board in advertising an election”. A person nominated by the nominating committee would have an unfair advantage. If no one runs, the Board can appoint someone.

Pg. 31 – Sec. 7.06(d) - the physical description of the ballots repeats 4.06 (d) – reference in one place or the other

Pg. 31 – what is the purpose of the third sentence in (d)?

Pg. 31 (d) (ii) – delete reference to proxies

Pg. 33 – (i) first sentence - delete “nominated (by the nomination committee or by self-nomination)”

Pg. 33 (i) 12<sup>th</sup> and 13<sup>th</sup> line down – delete “including self-nomination”

Pg. 35 – (b) the introductory paragraph is missing – “A director or member of a committee shall not vote on any of the following matters.”

Pg. 36 – why are we taking out the language regarding automatic resignation upon the termination of a Director’s status as an owner?

Pg. 37 – (iii) – modify 1<sup>st</sup> phrase: fails to attend in person or electronically three...

Pg. 37 I disagree with (v)





Pg. 40 – Section 8.03 I don't read Civil Code Section 5500 as requiring monthly Board meetings, as long as the financials are reviewed as provided in Section 5501

Pg. 41 - - Section 8.05 is referenced, but it is also deleted

Pg. 43 – I would prefer to simply reference the DS OMA code sections – easier to keep up to date

pg. 46 - we refer to Civ. Code Sec. 4935(a) and yet expand on that code section with (F). We should accurately restate the statute or simply reference the statute

pg. 47 (h) - second line - "minutes" repeated twice

pg. 47 - reference in 8.08 should be 8.10

pg. 48 - why is the last sentence in 8.11 deleted?

pg. 49 (d) delete "qualifications for service on the Board"

pg. 49 (d) - adding "the renting or leasing of Separate interests - a poison pill?"

pg. 49 (d) instead of infractions of Governing Documents, use "properly-adopted rules of the Association"

pg. 50 - delete (n) Nominating Committee

pg. 51 - do we need authorization to order staff to enter property for defensible space/inspection work? (entry is on pg. 57)

pg. 51 - should we make it easier for the Board to grant an easement?

pg. 52 (b)(i) - Where do these provisions come from? Under this - would the 4 yr contract with our GM have been void? What about multi-year construction contracts?

pg. 54 - elimination of protection of original facilities - impact vote requirement for new bylaws? raise golf/equestrian concerns?

pg. 57(a) - repetitious re: rules

pg. 57 - (b) delete nominating committee

pg. 57 and 58 - 10.03 - leave the organizational details of committee operation to Board resolution





pg. 59 - I think we should delete all of the language regarding the GM's duties and titles. The additions aren't necessary and refer to the existing situation which may be changed by future Boards. My proposed changes:

Sec. 11.01 - delete

Sec. 11.02 - delete

Sec. 11.04 - new phrase - delete

Sec. 11.07 - "...and the terms and conditions of the GM's contract with the association..." - delete

Sec. 11.09 - delete reference to delegation - the Board can do that if they want

Sec. 11.10 - delete second sentence

Delete paragraph above Sec. 11.11 and all of Sec. 11.11

pg. 65 - for the Annual Budget Report - I prefer to say that we will prepare the report in accordance with Civ. Code Sec. 5300.

pg. 68 - Sec. 12.18 - any reason to not just refer to Civ. Code Sec. 5500

pg. 70 - Article XIII - again, my preference would be to refer to the statute (Civ. Code Sec. 5310)

pg. 73 - my preference would be to note that members have a right to inspect some assoc. documents and reference the applicable code sections

pg. 77 - last line of first paragraph - proxy voting - not allowed?

### **Michael Fajans: Board Secretary**

Page 7. li. "The Development is within the jurisdictional boundaries of the Town." As I understand it, all of the developed property is, but some of the ski areas (at least cross country) are in Nevada County jurisdiction, not the town. This would include warming huts.

Page 9. Section 4.03. line 2 typo spelling of separate.

Page 42, Section 10.05. The board appoints the chair of the committee. Members of the committee vote on the chair – is the board supposed to approve it?





## **CC&Rs specific comments:**

### **Jennifer Jennings – Board President - Comments on the CC’R’s**

Pg. 3 - Article I - make sure that all of the definitions in the bylaws and the CC&Rs are consistent

Pg. 4 - I don't think we should state the number of commercial lots - doesn't add anything and that number may change

Pg. 5 - Sec. 1.19 - "Assessments and Liens" - Title of Article IV is "Assessments"; also, it is Other Association Real Property, not Other Association's Real Property

Pg. 5 - Sec. 1.20 - why the change from "or" to "and"

pg. 8 - Section 1.50 - definition of Development Fund - isn't this too narrow? Money is allocated to DF from regular assessments

pg. 9 - Sec. 1.55 - last sentence in (d) should be (e) - separate provision

pg. 10 - I don't agree with being able to remove a director for violation of a Code of Conduct - too vague

pg. 10 - Sec. 1.58 - second sentence - strike out "As so defined in" and the word "and" after Improvement.

Shouldn't we reference exterior improvements only

pg. 11 - Sec. 1.66 - I don't think there is any value in listing the number of the different types of lots. At least state - "As of the date of this Declaration..."

pg. 12 - Sec. 1.70 - limited to mortgages only on Condominiums?

pg. 12 - Sec. 1.73 - can we incorporate what is currently in OARP into the Common Areas?

pg. 15 - Section 1.99 - why include the number of lots?

pg. 16 - Section 1.107 - definition of SF residential use - I would keep the same definition as in existing CC&Rs to avoid misunderstandings

Pg. 17 - Article II includes the rights of the Association and the Owners, not just Owners

pg. 18 - (d) - can we grant the Board the authority to grant easements to other than public agencies if the easement will benefit the Association?





Pg. 19 - I want to keep Sections 2.06 - 2.14 - unless stated elsewhere

pg. 21 - issue of annexation (Donner Crest) vs. acquisition of additional property (Crabtree Canyon)?

pg. 26 - Sec. 3.01 - add trustee's sale?

Pg. 27 (b) - implies that the only way to have funds in the DF is via special assessment

pg. 30 - two typos in the next to the last paragraph "proposed" rule change and "as" soon as possible

pg. 31 - (ii) - I would just reference the code section for election conduct rules - no need to repeat B-F

pg. 31 (ii) (A) - delete "Members" on the 4th line

pg. 29 (c) (i) and pg. 32 (c)(iii) - what is the difference in rule adoption procedure between Certain Operating Rules and Other Association Rules - 28 days or 30 days? Can we combine?

pg. 33 - Sec. 3.08 - (a) - Corp. Code section 7231 release of liability only applies to directors - implies that it includes officers, committee members, employees, etc.

pg. 36 - Sec. 4.02 - we describe the contents of the Annual Budget Report, but that is already described in our bylaws (pg. 65) Do we need them both places?

pg. 39 - Sec. 4.03 (a)(i) fifth line - "when" instead of "in"

pg. 40 - (vi) - again implies that DF are only available via a special assessment and member election (second sentence ok)

pg. 45 - Sec. 4.06 - what is the reference to "subparagraph (c) above"?

pg. 47 - (d)(i)- 12.08 of the bylaws is now 12.19; also, why repeat the Reserve study when it is already in the bylaws?

pg. 49 - (e) - I don't understand the last sentence

pg. 52 - can we just cite the statute? The Association will follow the statutory procedures for enforcement of a personal obligation to pay assessments. Chap.8, Art. 2 and 3.

pg. 60 - Sec. 5.02 - I would prefer to leave the details of committee operation to a committee charter approved by the board; perhaps we should have more than three members.





pg. 61 - (c) - do we want ASC members to have the duty to inspect lots? should we add enforcement of maintenance standards to the duties?

pg. 61 - Sec. 5.03 (a) reference should be to Section 1.58, not 1.38

pg. 62 - what are "certain interior additions"? Not in the Declaration (as far as I can see) - should not have that delegated to Arch. Rules

pg. 68 - awkward "as to location with respect to topography"

pg. 71 - Sec. 5.96(a) third line down should be unnecessary  
there is no (i)  
(ii) how can this be met?

pg. 72 - what is an example of (v)?

pg. 73 - last para. of (c) - too vague?

pg. 75 - second line - "work performed by the requesting Owner or his or her agent"

pg. 79 - (ii) why allow construction in the side yard without a variance?

pg. 81 (d) - does not include the driveway?

pg. 83 (m) second line -  
"or" not "of"

pg. 90 - Section 7.02 add "Condominium" to the title

pg. 92 - (c) last sentence is very broad

pg. 93 - Sec. 7.24 add to the end: "This section does not address the liabilities as between the owner and former owner."

pg. 94 - Sec. 8.01(a)(i) - the tent?

pg. 95 (d) line 1 - "As addressed in"  
line 2 each proposed

pg. 99 (c) conflict with storage rental (kayak, RVs)?





pg. 99 - overstates what requires a member vote - for new capital improvements only if you need a special assessment: for existing common facilities only if one of the original (would prefer not to expand the list)

pg. 100 - (h) seems too broad to me. It could be interpreted to include short term renters. Also, what does it mean to be "subject to the terms of the Governing Documents" - only that you can't damage CFs? I would prefer to leave the issue of tenants' rights alone unless we have an identified vulnerability

pg. 103 - (C) why the strike-out with repeat of the same language?

pg. 104 - (n)(ii) - under this provision would we allow "vacation rental" signs. The provision says "temporarily advertising" but hard to enforce

pg. 108 (i)-(iii) - I would prefer to keep our existing language on vehicles (pg. 43 of CC&Rs) unless we need to address a major problem

pg. 109 - (p) - I would prefer not to rewrite our garage provision unless we are adding something important that we cannot address with Rules

pg. 110 - I would leave all of the use restrictions to Association rules or keep our current CC&Rs and address just the problems that we cannot address with rules

pg. 111 - (dd) - I don't think we need the phrase: "Except for Lots owned by the Association"

pg. 114 - (c) - I think this section should apply to all lots, not just commercial lots, although the proposed language is not a change from existing CC&Rs.

pg. 115 - (xxii) - I think the marijuana grow houses or dispensary restrictions should be expanded to include all lots, not just commercial lots

pg. 119 - Sec. 9.01 - correct reference in last line Article IX

pg. 120 - Sec. 9.03 - second line - change is incorrect

pg. 121 - third line - delete "which or"

pg. 121 - Sec. 9.13 - important and useful change

pg. 122 - Do we need all of the language about insurance? Prefer to say that we will carry insurance as required by law and additional insurance as deemed necessary by the Board

pg. 124 - (i), (ii) and (iv) - "Master" Association?





pg. 127 - Sec. 10.17 - do we need to mandate what insurance owners will carry? Why should an owner who rents out his/her house be required to carry insurance on the contents of the dwelling?

pg. 128 - Sec. 10.22 and Sec. 10.25 on pg. 129 seem duplicative

pg. 129 - ninth line down - capitalize individual notice

pg. 129 - Sec. 10.24 - individual or general notice to members?

pg. 130 (b) - is this paragraph required? we would have to notify members by 1st class mail if our deductible is increased?

pg. 134-136 - Sec. 11.03 is too harsh. I prefer our existing language regarding damage/destruction of a residence. (pg. 51). I don't think the Assoc. should be able to force the owner to rebuild. I agree with either rebuild or clear lot.

pg. 136-137 Sec. 12.01 and 12.04 - Private purchase in lieu of eminent domain?

pg. 138 - do we need Sec. 13.08 - isn't that covered sufficiently elsewhere?

pg. 139 - (b) reference that the Covenants Committee is established pursuant to Sec. 13.12 also broaden the description of the Covenants Committee jurisdiction- not just behavior at CF, also at lots. If the Assoc. declines to take action a member can take the Assoc. through the IDR/ADR process?

pg. 141 - fourth line down- delete "s"

pg. 143 - (iv) - I would give the offending owner at least ten days to file a request for a hearing

pg. 145 - (a) fourth line - capitalize Covenants Committee

pg. 146 - Sec. 13.13 - delete (a)

pg. 147 - add the Covenants Committee to the list of addresses. Also, add "or" in third line of provision starting with "Nothing"

pg. 149 - Article XV - roadways are Town thoroughfares, not County

pg. 153 - (f) change references to ECC to the Architectural Standards Committee, successor to the Environmental Control Committee

pg. 153 - certification - do we require 50% plus one affirmative vote?

