

ISSUE #1

MARKUP #1 ->

Section 1: [Article III, Section 4] Quorum of 1/10th of Membership and Adjournment Without Further Notice

Section 4. Quorum. The presence of one tenth (1/10) of the membership, including proxies, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, a quorum shall not be present at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting until a quorum shall be present.

Section 2: [Article III, Section 5] Proxies: Owner Silence / Non-Receipt of Proxy Deemed an Affirmative Vote to Amend

Section 5. Proxies. At a member's meetings to change a Section or an Article within the Declaration or within the Bylaws, each member shall vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. If no proxy designation is received, it is understood that the owner votes to agree with proposed change. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.

Section 3: [Article III, Section 7] Blanket Exculpation of Board and Directors for Any Action or Failure to Act

Section 7. Limitation of Liability. The Board shall not be liable for failure to carry out any power enumerated in Article VII here, or elsewhere in the Declaration in cases in which there are not sufficient moneys in the Maintenance Fund to enable it to carry out its power... Neither the Board nor any Member of the Board shall be liable to any unit owner, to any resident of The Ranch, nor to the Ranch Association on account of any action or failure to act of the Board.

Section 4: [Article IV, Section 2 & Section 3] Board Authority to Set Its Own Term of Years & Board Appointment of Rep

Section 2. Term of office. At each annual meeting the Members shall elect for a term of two (2) years, or a number of years to be set by the Board of Directors, a number of Directors equal to the number of Directors whose terms are ending at the time of the annual meeting... Section 3. Removal. Any Director shall be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 5: [Article VI, Section 4] Director Voting by E-Mail, Facsimile, or Post-Hoc Ratification Outside a Meeting

Section 4. Place of Meeting. Meetings of the Directors of the Association shall be held at places within the State of Montana, County of Flathead, as shall be designated by the Board of Directors. Members may also meet telephonically or electronically. Voting may be taken on any resolution or issue in person or electronically or telephonically, or subsequently ratified by written statement, facsimile, message or e-mail.

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Article III, Section 4 (p. 1): MT Manual Attorney Audit Finding (Article III, Section 4 - [Article III, Section 4] Quorum of 1/10th of Membership and Adjournment Without Further Notice - Section 4. Quorum. The presence of one tenth (1/10) of the membership, including proxies, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, a quorum shall not be present at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without...

Statutory / Legal Reference: Mont. Code Ann. §§ 70-17-901 et seq. & Title 35, Ch. 2; Mont. Code Ann. §§ 70-23-101 to 70-23-1002 (Unit Ownership Act)

Statutory Comparison: Manual attorney review identified statutory and enforceability compliance risks under Mont. Code Ann. §§ 70-17-901 et seq. & Title 35, Ch. 2; Mont. Code Ann. §§ 70-23-101 to 70-23-1002 (Unit Ownership Act).

CURRENT WORDING IN DOCUMENT:

[Article III, Section 4] Quorum of 1/10th of Membership and Adjournment Without Further Notice - Section 4. Quorum. The presence of one tenth (1/10) of the membership, including proxies, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Article III, Section 4 ([Article III, Section 4] Quorum of 1/10th of Membership and Adjournment Without Further Notice - Section 4. Quorum. The presence of one tenth (1/10) of the membership, including proxies, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, a quorum shall not be present at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting until a quorum shall be present.) to conform with Mont. Code Ann. §§ 70-17-901 et seq. & Title 35, Ch. 2; Mont. Code Ann. §§ 70-23-101 to 70-23-1002 (Unit Ownership Act) and the manual attorney audit recommendations for The Ranch Association, Inc..