

Section 1: [Declaration Article VIII, Section 3(c) & Board Policy 3.01 (Penalizing a Member)] Temporary Suspension of

MARKUP #1 ->

It shall be the policy of the Association that, prior to suspension of the enjoyment of the rights of any Member, otherwise known as membership privileges, for any infringement of its rules and regulations and violations of the Declaration or Protective Covenants, the Board will allow the Member the right of appeal to the Board and the Member shall be notified in writing of such right of appeal. Article VIII, Section 3(c) of the Declaration, Article IV, Section 2(E) of the Bylaws. The Board authorizes the Chief Operating Officer or his/her designee to temporarily suspend membership privileges until the Member has been notified in writing of their right of appeal and the time period for appeal has expired.

ISSUE #1

Section 2: [Declaration Article VIII, Section 3(E), Bylaws Article IV, Section 2(E), & Board Policy 3.09] Suspension of Water Service

It shall be the policy of the Association that prior to suspension of water service of any Member for non-payment of assessments (where an account is 60 or more days past due and no active payment arrangement exists), the Member will be notified, the Board will allow the Member the right of appeal to the Board, and the Member shall be notified in writing of such right of appeal. Upon expiration of the appeal period or denial of appeal, water service to the Member's residential property may be disconnected until all delinquent assessments and reconnection fees are paid.

Section 3: [Protective Covenants & Board Policy 8.06] Architectural Control Committee (BVVACC) Jurisdiction and Home

No building, fence, wall, dock, or other structure shall be commenced, erected, or maintained upon any Lot without prior written permit from the Bella Vista Village Architectural Control Committee (BVVACC, Inc.). Residential lots shall be used solely for single-family residential purposes, and unauthorized commercial or business operations on residential property are prohibited under Policy 8.06.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. Declaration Article VIII, Section 3(E), Bylaws Article IV, Section 2(E), & Board Policy 3.09 (p. 1): Covenant authorizes unlawful self-help termination of essential residential utilities, warrantless self-help lot/unit entry or demolition, lockouts, or denial of ingress/egress.

Statutory / Legal Reference: Ark. Code Ann. § 18-13-108; Ark. Code Ann. §§ 18-13-101 et seq. & Title 4, Ch. 33; Ark. Code Ann. §§ 18-13-101 to 18-13-120 (Horizontal Property Act); Restatement (Third) of Property: Servitudes § 4.9...

Statutory Comparison: Under Arkansas law (Ark. Code Ann. § 18-13-108; Ark. Code Ann. §§ 18-13-101 et seq. & Title 4, Ch. 33; Ark. Code Ann. §§ 18-13-101 to 18-13-120 (Horizontal Property Act)), an association may not impair an owner's appurtenant right of vehicular and pedestrian ingress and egress to their residence or engage in non-judicial self-help termination of essential residential utilities (water, electricity, gas, sewer).

CURRENT WORDING IN DOCUMENT:

[Declaration Article VIII, Section 3(E), Bylaws Article IV, Section 2(E), & Board Policy 3.09]
Suspension of Water Service for Non-Payment of Assessments - It shall be the policy of the Association that prior to suspension of water service of any Member for non-payment of assessments (where an account is 60 or more days past due and no active payment arrangement exists), the Member will be notified, the Board will allow the Member the right of appeal to the Board, and the Member shall be notified in writing of such right of appeal. Upon expiration of the appeal period or denial of appeal, water service to the Member's residential property may be disconnected until all delinquent assessments and reconnection fees are paid.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Under no circumstances shall any suspension of privileges impair the right of an Owner or occupant to have vehicular and pedestrian ingress to and egress from their Lot or Unit, nor shall the Association disconnect essential residential utility services, execute non-judicial self-help entry/demolition, or conduct non-judicial lockouts, in accordance with Ark. Code Ann. § 18-13-108; Ark. Code Ann. §§ 18-13-101 et seq. & Title 4, Ch. 33; Ark. Code Ann. §§ 18-13-101 to 18-13-120 (Horizontal Property Act); Restatement (Third) of Property: Servitudes § 4.9 (Arkansas Prohibition on Self-Help Lockout & Utility Termination).