

ISSUE #1

Section 1: [Section 1.2] Fines and Covenant Enforcement Procedure

Upon observing a covenant or rule violation, the Association will send a courtesy notice via regular mail giving ten (10) days to cure the violation. If the violation is not cured within ten (10) days, a fine of \$50.00 per day may be assessed until the violation is corrected, and unpaid fines shall be added to the Owner's assessment lien.

MARKUP #1 ->

Section 2: [Section 3.4] Landscaping and Turf Requirements

All front and side yards visible from the street must be landscaped primarily with irrigated natural grass sod and maintained in a green, manicured condition. Artificial turf and extensive rock or gravel xeriscaping in front yards are prohibited without a special variance from the Architectural Committee.

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Section 1.2 (p. 1): Regular-mail 10-day cure period, uncapped \$50/day daily fines, and lien foreclosure for unpaid fines.

Statutory / Legal Reference: C.R.S. § 38-33.3-209.5(1.7) & C.R.S. § 38-33.3-316.3(2)

Statutory Comparison: Under CCIOA as amended by HB 22-1137 (C.R.S. § 38-33.3-209.5(1.7)), for any violation that does not threaten public health and safety, the association must send notice by certified mail, return receipt requested, and grant two consecutive 30-day cure periods (60 days total) before imposing legal action, and total fines for a non-health/safety covenant violation may NOT exceed \$500.00 in the aggregate. Furthermore, C.R.S. § 38-33.3-316.3(2) prohibits foreclosing an assessment lien consisting solely of fines and related collection fees.

CURRENT WORDING IN DOCUMENT:

[Section 1.2] Fines and Covenant Enforcement Procedure - Upon observing a covenant or rule violation, the Association will send a courtesy notice via regular mail giving ten (10) days to cure the violation. If the violation is not cured within ten (10) days, a fine of \$50.00 per day may be assessed until the violation is corrected, and unpaid fines shall be added to the Owner's assessment lien.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Section 1.2 ([Section 1.2] Fines and Covenant Enforcement Procedure - Upon observing a covenant or rule violation, the Association will send a courtesy notice via regular mail giving ten (10) days to cure the violation. If the violation is not cured within ten (10) days, a fine of \$50.00 per day may be assessed until the violation is corrected, and unpaid fines shall be added to the Owner's assessment lien.) to conform with C.R.S. § 38-33.3-209.5(1.7) & C.R.S. § 38-33.3-316.3(2) and the manual attorney audit recommendations for Battlement Mesa Service Association.