

ISSUE #1

MARKUP #1 ->

**Section 1: [Bylaws Article IX, Section 4 & Rules and Regulations Enforcement Schedule] Imposition of Enforcement Assessments**

Whenever a Member, or a Member's family member, tenant, or guest, violates any provision of the Covenants, Bylaws, or Rules and Regulations (including Watercraft and Lake Rules), the Association Manager or Board may levy an Enforcement Assessment against the Member's Lot. The Enforcement Assessment, together with any administrative charges and legal fees incurred by the Association, shall be due within ten (10) days of billing and, if unpaid, shall automatically attach as a continuing lien against the Member's Lot.

**Section 2: [Bylaws Article VIII, Section 2 (Annual Budget and Reserve Funding)] Discretionary Reserve Allocation by Board**

The Board of Directors shall adopt an annual budget estimating the common expenses of the Association for the ensuing fiscal year. The Board may, in its sole discretion, allocate such portion of the annual dues to capital replacement reserves as the Board deems feasible, or defer reserve contributions in any year to avoid an increase in the annual assessment without submitting the reserve deferral to a vote of the Membership.

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

**Sec. Bylaws Article IX, Section 4 & Rules and Regulations Enforcement Schedule (p. 1): Levying enforcement assessments/fines without mandatory statutory written notice and 10-day hearing request window**  
Statutory / Legal Reference: Ohio Rev. Code § 5312.11 & § 5312.12 (Ohio Planned Community Act - Enforcement Assessments, Notice & Hearing)

Statutory Comparison: Under Ohio Rev. Code § 5312.11(C), prior to imposing a charge for damages or an enforcement assessment (fine), the board of directors MUST give the owner a written notice that includes: (1) a description of the property damage or violation; (2) the amount of the proposed charge or assessment; (3) a statement that the owner has a right to a hearing before the board to contest the proposed charge or assessment; (4) a statement setting forth the procedures to request a hearing; and (5) a reasonable date by which the owner must cure a violation to avoid the proposed charge or assessment. Under § 5312.11(D)(2), the owner must be given at least 10 days to request a hearing, and the board may not levy the charge or assessment before holding any requested hearing.

**CURRENT WORDING IN DOCUMENT:**

[Bylaws Article IX, Section 4 & Rules and Regulations Enforcement Schedule] Imposition of Enforcement Assessments and Legal Fees Without Statutory Pre-Deprivation Notice - Whenever a Member, or a Member's family member, tenant, or guest, violates any provision of the Covenants, Bylaws, or Rules and Regulations (including Watercraft and Lake Rules), the Association Manager or Board may levy an Enforcement Assessment against the Member's Lot. The Enforcement Assessment, together with any administrative charges and legal fees incurred by

**SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):**

Amend Section Bylaws Article IX, Section 4 & Rules and Regulations Enforcement Schedule ([Bylaws Article IX, Section 4 & Rules and Regulations Enforcement Schedule] Imposition of Enforcement Assessments and Legal Fees Without Statutory Pre-Deprivation Notice - Whenever a Member, or a Member's family member, tenant, or guest, violates any provision of the Covenants, Bylaws, or Rules and Regulations (including Watercraft and Lake Rules), the Association Manager or Board may levy an Enforcement Assessment against the Member's Lot. The Enforcement Assessment, together with any administrative charges and legal fees incurred by the Association, shall be due within ten (10) days of billing and, if unpaid, shall automatically attach as a continuing lien against the Member's Lot.) to conform with Ohio Rev. Code § 5312.11 & § 5312.12 (Ohio Planned Community Act - Enforcement Assessments, Notice & Hearing) and the manual attorney audit recommendations for RomeRock Association, Inc..