

ISSUE #1

Section 1: [Section 3.4] Fining Procedure and Continuing Daily Fines

The Board or Management may assess an immediate fine of \$100.00 for a first violation of the Initial Rules and \$50.00 per day for a continuing violation without upper limit. All fines are final unless the Owner files a written appeal within ten (10) days of the fine notice.

MARKUP #1 ->

Section 2: [Section 2.9] Water-Efficient Landscaping and Turf Requirements

All front yards and park strips must be landscaped with at least fifty percent (50%) irrigated sod grass. Removal of front-yard or park-strip sod in favor of rock, mulch, or drought-tolerant drip-irrigated plantings is prohibited.



MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

**Sec. Section 3.4 (p. 1): Fining provision authorizes immediate or unscheduled fines without the mandatory 48-hour cure window and 30-day informal hearing request right, or exceeds the \$500 monthly fine cap under Utah Code §§ 57-8a-208 and 57-8-37.**

**Statutory / Legal Reference: Utah Code §§ 57-8a-208 & 57-8-37**

Statutory Comparison: Under Utah Code § 57-8a-208 (Community Association Act) and § 57-8-37 (Condominium Ownership Act), a board may assess a fine only if: (1) before assessing a fine, the board gives the owner a written warning describing the violation and stating a time of not less than 48 hours to cure the violation; (2) the fine is in a specific dollar amount according to a written schedule of fines adopted by rule; (3) the total amount of fines assessed against a lot/unit owner does not exceed \$500 in any one calendar month; and (4) the owner is permitted to request an informal hearing before the board within 30 days after the date the fine is assessed.

**CURRENT WORDING IN DOCUMENT:**

[Section 3.4] Fining Procedure and Continuing Daily Fines - The Board or Management may assess an immediate fine of \$100.00 for a first violation of the Initial Rules and \$50.00 per day for a continuing violation without upper limit. All fines are final unless the Owner files a written appeal within ten (10) days of the fine notice.

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

Pursuant to Utah Code §§ 57-8a-208 and 57-8-37, before assessing any fine for a first violation within a one-year period, the Board shall deliver a written warning providing the owner at least forty-eight (48) hours to cure the violation. Any fine must be assessed in accordance with a written schedule of fines previously adopted and distributed to owners, cumulative fines against an owner shall not exceed Five Hundred Dollars (\$500.00) in any calendar month, and a fined owner may request an informal hearing before the Board within thirty (30) days after the fine is assessed (during which no interest or late fees may accrue).