

Association shall provide written notice to the Owner and alleged violator (if not the same person) by service of process, which notice shall include the following:

12.03.1. A short plain statement of the matters asserted by the Association to constitute the violation(s), including but not limited to the specific violation alleged, the date, time and location of each alleged violation for which a fine may be imposed.

12.03.2. A statement that the Association will provide a hearing before the Fining Committee not less than fourteen (14) days after receipt of service of process. The date, time and place of the hearing will be stated in the notice.

12.03.3. A statement that the Owner and the alleged violator (if not the same person) will have an opportunity at such hearing to respond to the alleged violation(s), present evidence and provide written and verbal argument on all pertinent issues, as well as to review, challenge and respond to any material considered by the Fining Committee.

12.04. Hearing. The Fining Committee shall consider all evidence and testimony presented at the hearing prior to the determination of whether there was a violation and whether and in what amount to impose a fine. In the event a violation is proven to the satisfaction of the Fining Committee, the Committee shall determine the amount of the fine, if any, which shall be levied, consistent with Article 12.05. The Fining Committee's determination shall be transmitted to the Board, which shall formally approve and levy the fine provided by that determination. After a fine is levied, the Association shall provide a demand for payment to the Owner and violator. Fines shall be paid in full within thirty (30) days of receipt of the Association demand for payment.

ISSUE #1

12.05. Amount of Fine. The Fining Committee shall levy a reasonable fine not to exceed the amount of One Hundred Dollars (\$100.00) per violation, provided that a fine for a continuing violation may be in an amount up to One Hundred Dollars (\$100.00) for each day, up to a maximum of Five Thousand Dollars (\$5,000.00). If permitted by law, a fine shall become a lien upon a lot.

12.06. Failure to Pay. An Owner shall be responsible for paying all fines properly levied against the Owner for a violation by any person who is on the Property with the express or implied permission of the Owner, including without limitation, the Owner's tenants, guests, family members, invitees, employees or contractors. In the event an Owner refuses or otherwise fails to pay a fine, the Association may mediate if and as required and proceed with legal action in a court of competent jurisdiction to collect the sum due together with costs and reasonable attorneys' fees of the Association incurred incident to such collection action. Failure or refusal to pay a fine shall be a violation of these Bylaws.

12.07. Inapplicability of this Article. The requirements of this Article shall not apply to the imposition of suspensions, fines or fees upon any member because of the failure of the member to pay assessments or other charges when due if such action is authorized by the governing documents.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 12.05 (p. 17): HOA clause permits placing a lien on a parcel for unpaid fines without the statutory \$1,000 minimum threshold.

Statutory / Legal Reference: Fla. Stat. § 720.305(2)

Statutory Comparison: Under Fla. Stat. § 720.305(2), a fine of less than \$1,000 may not become a lien against a parcel.

CURRENT WORDING IN DOCUMENT:

Amount of Fine. The Fining Committee shall levy a reasonable fine not to exceed the amount of One Hundred Dollars (\$100.00) per violation, provided that a fine for a continuing violation may be in an amount up to One Hundred Dollars (\$1 00.00) for each day, up to a maximum of Five Thousand Dollars (\$5,000.00). If permitted by law, a fine shall become a lien upon a lot.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 720.305(2), a fine of less than \$1,000 may not become a lien against a parcel.