

Section 1: [Article VI, Section 10] Animals and Pets

Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the Board's sole discretion, shall be permanently removed from the Property upon seven (7) days' written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner.

ISSUE #1

Section 2: [Article XIII, Section 2] Self-Help

In addition to any other remedies, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Lot Owner and shall be collected as provided herein for the collection of assessments.

Section 3: [Article VI, Section 5] Signs

No sign of any kind shall be erected by an Owner or occupant of a Lot within the Community without the prior written consent of the Architectural Control Committee except as follows: (a) Lots: (i) one (1) professionally lettered 'For Sale' or 'For Lease' sign; and (ii) one (1) professionally lettered security sign, each consistent with Architectural Control Committee standards; (b) Common areas: (i) professionally lettered 'Open House', 'Garage Sale', and/or Community event notice, for not more than three (3) days; and (ii) Owner graduation banner, for not more than 2 weeks.

Section 4: [Article VI, Section 23] Energy Conservation, Equipment, Lighting, Artificial Vegetation, Exterior Sculpture and

No equipment including, but not limited to, the following: window fans, or window air conditioning units; solar energy collector panels or attendant hardware or other energy conservation equipment; lighting (except seasonal Christmas lighting); and artificial vegetation, exterior sculpture, fountains and similar items shall be erected or installed on a Lot without the prior written approval of the Architectural Control Committee.

Section 5: [Article XIII, Section 3 & Section 4(e)] Duration & Amendment (Non-Submission to Georgia POAA)

However, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected by the law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of twenty (20) years, unless fifty-one (51%) percent of the persons owning Lots execute a document to terminate the covenants... as provided in O.C.G.A. § 44-5-60.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 2 (p. 1): Forcible Self-Help Lot Entry, Non-Visible Interior Inspection, or Wildfire Defensible-Space Obstruction: Clause authorizes forcible non-judicial lot entry, interior garage inspections, or obstructs wildfire defensible-space clearing under GA law.

Statutory / Legal Reference: O.C.G.A. § 14-3-621 & § 14-3-101 et seq. (Georgia Nonprofit Corporation Code - Non-POAA Common-Law HOA; cf. O.C.G.A. § 44-3-222)

Statutory Comparison: Under O.C.G.A. §§ 44-3-220 to 44-3-235 (Georgia Property Owners' Association Act); Restatement (Third) of Property (Servitudes) § 6.8, associations cannot authorize forcible self-help entry onto private lots without judicial process or emergency necessity, cannot regulate non-visible interior garage spaces, and cannot penalize mandatory wildfire defensible-space clearing. (Note: Because this Declaration does not contain an affirmative submission to the Georgia Property Owners' Association Act under O.C.G.A. § 44-3-222, statutory POAA liens and powers do not apply unless opted in by recorded amendment; governance and suspension authority are controlled by the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101 et seq., and common-law servitude principles.)

CURRENT WORDING IN DOCUMENT:

[Article XIII, Section 2] Self-Help In addition to any other remedies, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Lot Owner and shall be collected as provided her

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 2 to require judicial process for non-emergency lot entry and limit review to visible exterior improvements under O.C.G.A. §§ 44-3-220 to 44-3-235 (Georgia Property Owners' Association Act); Restatement (Third) of Property (Servitudes) § 6.8.