

MARKUP #1 ->

any additional fines that may be assessed will be recorded against the Member’s lot. A copy of the recorded lien will be provided to the Member. Violation Hearings are held monthly in person or via Zoom. Monthly meeting details are posted on the HOA webpage, www.montrosehoa.com. Members that wish to contest enforcement fines must attend the Violation Hearing or submit written contest at least two days ahead of the Hearing.

3. NOTICE OF 1ST FINE. If the violation is not yet remedied within an additional fourteen (14) days from the date of the Notice of Intent to Fine, and the Member still has not contacted the HOA to discuss resolution, a Notice of 1st Fine will be sent and a \$100.00 fine will be levied against the Member’s account with the Association.
4. NOTICE OF 2ND FINE. If the violation is not yet remedied within an additional fourteen (14) days from the Notice of 1st Fine, and the Member still has not contacted the HOA to discuss resolution, a Notice of 2nd Fine will be sent and a \$250.00 fine will be levied against the Member’s account with the Association.
5. NOTICE OF 3RD FINE. If the violation is not yet remedied within an additional fourteen (14) days from the Notice of 2nd Fine, and the Member still has not contacted the HOA to discuss resolution, a Notice of 3rd Fine will be sent and a \$500.00 fine will be levied against the Member’s account with the Association.
6. NOTICE OF RECURRING MONTHLY FINE. If the violation is not yet remedied within an additional fourteen (14) days from the Notice of 3rd Fine, and the Member still has not contacted the HOA to discuss resolution, a Notice of Recurring Monthly Fine will be sent and a \$1000.00 fine will be levied against the Member’s account with the Association. This \$1000.00 will continue to accrue monthly from this point until resolved.
7. COLLECTIONS, FORECLOSURE and/or ATTORNEY REFERRAL. The Association may elect to foreclose the lien as provided by the Declaration at any time within its discretion, and the Member against whom the lien is foreclosed shall, in addition to the amount of the lien and all such further fines that may be assessed during the course of such action, be liable to the Association for all reasonable legal fees and costs incurred in such foreclosure action. The election by the Association to foreclose such lien shall be in addition to any and all other remedies available to the Association as provided in the Declaration, and as may be provided for by law or in equity under the laws of the State of Idaho. **It is imperative that Members reply promptly and communicate with the HOA often to avoid penalties that accompany both enforcement and collection.**
8. CORRECTION. The Board shall, in its sole discretion, determine if and when a violation is cured or otherwise remedied to the Association’s satisfaction. ~~The Association follows a progressive enforcement model, with ample time for resolution before each fine is levied. Further occurrences of the same violation within three (3) months of the date the first notice is given shall be considered~~

ISSUE #1

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 8 (p. 2): **Fining provision violates Idaho Code § 55-3205 by authorizing fines without a recorded fine schedule, a 30-day certified mail cure/hearing notice, and a majority board vote, or by assessing attorney fees before expiration of the 30-day notice period.**

Statutory / Legal Reference: **Idaho Code § 55-3205 & Idaho Code § 55-115; IDAPA 24.37.01**

Statutory Comparison: Under Idaho Code § 55-3205, no fine may be imposed on a member for a violation of the covenants and restrictions unless: (1) the authority to impose a fine is clearly set forth in the covenants and restrictions and a schedule of fines is adopted and provided; (2) a majority of the board votes to impose the fine at a meeting; (3) the member is given written notice by personal service or certified mail at least 30 days prior to the meeting; (4) no fine is imposed if the member begins resolving the violation prior to the meeting and continues in good faith; and (5) no portion of any fine may be used to increase the compensation of the board or management agent, nor may attorney's fees be assessed unless the member fails to begin resolving the violation within the 30-day notice window.

CURRENT WORDING IN DOCUMENT:

enforcement model, with ample time for resolution before each fine is levied. Further occurrences of the same violation within three (3) months of the date the first notice is given shall be considered the same event, and the fine enforcement process described herein shall be deemed on-going from

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Idaho Code § 55-3205, no fine shall be imposed unless authorized by the recorded covenants and an adopted schedule of fines, and only after: (a) the member is provided at least thirty (30) days' advance written notice by personal service or certified mail prior to a Board meeting; (b) the member has failed to cure or commence resolving the violation in good faith prior to the meeting; and (c) a majority of the Board votes at the meeting to impose the fine. No attorney's fees or collection costs shall be charged to the member prior to the expiration of the thirty (30) day notice period.