ISSUE #1

Section 1: [Rules and Regulations, Section IV.C] Suspension of Gate Transponder and Road Access for Delinquency

Any Member whose Annual or Special Assessments or violation fines remain unpaid for more than thirty (30) days after the due date shall have their automated gate barcode/transponder deactivated and all lake, clubhouse, and recreational privileges automatically suspended by Management without further notice until the account is paid in full.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 1 (p. 1): Clause permits fining or privilege suspension without mandatory written notice and an adjudicatory hearing (or permits officers/directors on a separate adjudicatory panel) under N.C. Gen. Stat. § 47F-3-107.1.

Statutory / Legal Reference: N.C. Gen. Stat. § 47F-3-107.1

Statutory Comparison: Under N.C. Gen. Stat. § 47F-3-107.1, a lot or unit owner may not be fined or have planned community/condominium privileges or services suspended unless the owner is given notice of the charge, an opportunity to be heard and to present evidence, and notice of the decision before an adjudicatory panel appointed by the executive board (whose members must contain no officers, directors, or their immediate family members) or before the executive board itself. If a violation is found, the fine may not exceed one hundred dollars ($100.00) for the violation, plus up to one hundred dollars ($100.00) per day for any continuing violation occurring more than five (5) days after the decision is communicated to the owner.

CURRENT WORDING IN DOCUMENT:

[Rules and Regulations, Section IV.C] Suspension of Gate Transponder and Road Access for Delinquency Any Member whose Annual or Special Assessments or violation fines remain unpaid for more than thirty (30) days after the due date shall have their automated gate barcode/transponder deactivated and all lake, clubhouse, and recreational privileges automatically suspended by Management without further notice until the account is paid in full.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to N.C. Gen. Stat. § 47F-3-107.1, no fine or suspension of community privileges or services shall be imposed until the owner has been given written notice of the alleged violation and an opportunity to be heard and present evidence before the Executive Board or an adjudicatory panel composed of members who are neither officers nor directors of the Association. Any fine imposed shall not exceed One Hundred Dollars ($100.00) for a single violation, and for a continuing violation may not exceed One Hundred Dollars ($100.00) per day beginning more than five (5) days after the decision is communicated that the violation occurs. The owner may appeal an adjudicatory panel decision to the full Executive Board within fifteen (15) days.