Section 2.5 - Sample Provision Excerpt (Public Preview)

Article 6, Section 6.2(c) Of this Declaration and/or levy a fine up to $1,000.00 for non-compliance with this rule which shall apply to Owners and Builders at the Board's sole discretion.
All incinerators or other equipment for the storage or other disposal of such material shall be kept in clean and sanitary condition.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · STATUTORY FINING & HEARING DEFECT

BOARD & COUNSEL REVIEW

Sec. 2.5 (p. 13): Fining or suspension provision omits modern statutory due-process safeguards (advance written notice specifying the violation and curing window, formal hearing procedure, and statutory fine caps) required under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d).

Statutory / Legal Reference: Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061

Statutory Comparison: Under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d) and Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules), an association cannot impose a fine or suspend common-area or voting rights without first providing written notice of the specific covenant violation, a reasonable opportunity to cure, and a formal opportunity...

CURRENT WORDING IN DOCUMENT:
Article 6, Section 6.2(c) Of this Declaration and/or levy a fine up to $1,000.00 for noncompliance with this rule which shall apply to Owners and Builders at the Board's sole discretion. All incinerators or other equipment for the storage or other disposal of such material shall be kept in clean and sanitary condition.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Update the fining and suspension procedure to require advance written notice of the specific violation, an opportunity to cure, a formal hearing procedure, and adherence to statutory fine limits under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d).