



**MARIPOSA COMMUNITY ASSOCIATION  
DELINQUENT ASSESSMENT POLICY**

**WHEREAS**, the Board of Directors is charged with the responsibility for collecting all assessments of the members in a fair and uniform manner pursuant to Chapter 12 of the Charter for the Mariposa Community Association (the "Association");

**WHEREAS**, the Charter directs this responsibility to the Board of Directors for such collection;

**WHEREAS**, Section 8.2 (a)(iii) of the Charter provides that the Board may "suspend any person's right to use any Common Area facilities (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a Single violation or for a longer period in the case of any continuing violation (except that no notice or hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed the Association); provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

**WHEREAS**, Section 12.6 (a) provides that "By accepting a deed or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents and the Community Covenant. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of New Mexico law), late charges as determined by Board resolution, costs, and reasonable attorneys fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance;

**WHEREAS**, the Association has contracted with a professional management company pursuant to Section 7.3 of the By Laws, to provide management service and supervision over certain contract services to the Association;

**WHEREAS**, on December 19, 2007, the Board of Directors previously adopted an Assessment Delinquency Policy, which is hereby being amended; and,

**NOW THEREFORE**, be it resolved that the Board of Directors has elected to authorize its Managing Agent to carry out the following policy with respect to all delinquent accounts, reserving to itself the right to modify or intervene in certain cases, as the Board may see fit.

**Types of Assessments** The Association may levy annual Base Assessments, Special Assessments, Specific Assessments, and Neighborhood Assessments, as set forth in the Charter (collectively, the "Assessments"), sufficient to perform its obligations under the Association's Governing Documents and New Mexico law. Base Assessments and Neighborhood Assessments in an amount sufficient to pay the common expenses pursuant to the Association's adopted budget are levied annually and are payable during the year in quarterly installments. No Owner may exempt himself from liability for Assessments by non-use of Common Area, abandonment of his Unit, or non-use of services provided to all Units or all Unit Owners within the Service

Area to which the Unit is assigned.

**Creation of Lien** Each Assessment or charge is the personal obligation of the Owner at the time the Assessment or other sums are levied. In addition, the Association has a lien against the Owner's Unit for any Assessment and other charges. Recordation of the Charter constitutes record notice and perfection of the Association's lien. No further recordation of any claim or lien for any unpaid Assessment is required.

**Duty to Notify** The Association will give the Owners notice of any increase in the Base Assessment and any Neighborhood Assessment, through the budget process. The Board of Directors may elect from time to time to provide additional periodic statements of Assessments and charges, but failure to transmit such additional statements does not relieve the Owners of the obligation to pay Assessments. **It is the responsibility of each Owner to advise the Association of any change in their mailing address.**

**Due Date** The Base Assessment is due annually; however, in accordance with the governing documents, the Board has elected to collect it in quarterly payments. Unless otherwise specified by the Board, an Assessment is due on or before the first day of the quarter for which it is due, and considered past due on the second day of the quarter for which it is due. At present, the Base Assessments and Neighborhood Assessments are collected quarterly and are due on: July 1, October 1, January 1, and April 1. Other Assessments are due on the date established by the Board.

**Application of Payments** Payments received by the Association shall be applied first to late fees, interest, and costs of collection, including attorney fees and then any past due Assessments.

**30 Days Past Due** If any installment of an Assessment is not received within thirty (30) days after the due date, a late notice will be sent and the account will be charged a "Late Fee" as stipulated in "Exhibit A" of the management contract.

**60 Days Past Due** If any installment of an Assessment is not received by the Association within sixty (60) days after the due date, the Association will send a "Late Letter" to the Owner with the amount of the delinquent assessment owed to the Association. The initial Late Letter will be sent via first class mail. All fees associated with this letter will be charged to the owners account in the amount stipulated in "Exhibit A" of the Management Contract.

Furthermore, use and enjoyment of the Community Center facilities (including the pools) will be suspended for Owners with association fees delinquent sixty (60) days or more (no notice or hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed the Association). In addition, the Association may take additional action allowed by the Governing Documents to suspend the membership privileges of the Owner until the overdue Assessment(s) and all cost of collections are paid in full.

The membership privileges that may be suspended shall include, but are not limited to: access to other recreational amenities; the ability to participate in recreational classes, events or other activities for the Owner, household members and guests; and, suspension of the Owner's voting rights. These actions may require the Board of Directors to send a Hearing Notice to the Owner's mailing address, setting a date for the Owner to appear before the Board.

**75 Days Past Due** If any installment of an Assessment is not received by the Association within seventy-five (75) days after the due date, the Association will send a Demand Letter (referred to as the “Demand Lien Letter”) to the Owner making formal demand for immediate payment of all outstanding amounts. The Demand Letter will be sent via regular and certified mail, return receipt requested. All fees associated with this letter will be charged to the Owner’s account. The account will be charged the amount stipulated in Exhibit A of the Management Contract.

**90 Days Past Due** If any installment of an Assessment is not received by the Association within ninety (90) days after the due date, if the Owner fails to pay in full the entire amount covered by a Demand Letter by the date specified, the Board will cause to be prepared and recorded with the Sandoval County Recorder a written Notice of Lien setting forth as to any Unit the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof in accordance with N.M.R.S. § 47-7C-16. The account will be charged the amount stipulated in Exhibit A of the Management Contract. The failure of the Association to execute and record any such Notice of Lien shall not affect the validity, enforceability, or priority of the lien.

**120 Days Past Due** If any installment of an Assessment is not received by the Association within one hundred twenty (120) days after the due date, the Association may turn the account over to legal counsel or a trustee service for collection, and, if the account remains unpaid, foreclosing” with “an action foreclosing the lien of the Association in accordance with Section 12.7 of the Charter. Further collection efforts to secure Association assessments on those accounts which have not responded to prior efforts at the conclusion of 120 days will be by legal counsel, at the direction of the Board of Directors. Specific options may include personal money judgment, foreclosure (either judicial or non-judicial) and/or referral to a third-party collection agency.

**Payment Plan** An Owner may petition the Board of Directors in writing for a payment agreement to allow the Owner to make periodic partial payments on the entire balance of the Assessment account; however, the Association has no duty to enter into a payment plan. If the Board of Directors agrees to enter into a payment agreement and to accept a reasonable payment plan with the Owner, then the terms of any payment shall include, at a minimum:

- The Owner staying current on all future accruing Assessments as they come due;
- Paying off the past due balance in installments over a term generally not to exceed 12 months
- The Owner is responsible for any and all fees charged for administration of such Payment Plan.

Any agreement entered into with the Owner shall be reasonable, as determined in the sole discretion of the Board, and for the sole purpose of assuring that the best interest of the Association is served. The payment agreement shall be in writing and a provision shall be included that failure to meet any terms of the agreement shall give the Board the right to immediately continue the collection/lien/foreclosure process without further notice to the Owner.

**Release of Lien** A Release of Lien will not be recorded until the entire balance of the Owner’s Assessment and/or account is paid. All charges incurred in recording a Release of Lien, including reasonable attorney’s fees, will be charged to the Owner’s Assessment account.

**NSF Check** At any time that the Association or its designated agent receives a check dishonored by the bank for any reason, the “insufficient funds charge” by the participating bank may be added to the Owner’s account. The Board of Directors may immediately proceed with the collection process if the Assessments are not paid within ten (10) days after notice of the dishonored check is sent to the Owner. The Association may also seek any other damages, in accordance with New Mexico law. A second occurrence of a returned check within the same calendar year may result in a requirement for payments by cashier’s check or money order only. Thereafter, two such occurrences within any twelve-month period shall result in required payments by cashier’s check or money order only.

**Disputes** If the Owner questions the accuracy of the calculation of an account or the amount charged to the Assessment account, an objection to the specific charges must be received by the Board of Directors within thirty (30) days of the date notice was received by the Owner of the charge or balance. The disputed amount may remain unpaid during the investigation, but undisputed portions of the account must be paid before the delinquency date in order to avoid collection charges. No action will be taken to collect the disputed amounts until completion of the investigation and the Board of Directors makes a decision. The Owner must provide the following information in writing regarding any dispute:

- The Owner’s name, mailing address, and account number.
- The exact dollar amount in dispute or in error.
- For each charge in dispute, an explanation of the reasons the Owner believes there is an error, with sufficient detail such as dates, names, and check numbers, so that the dispute may be investigated efficiently and effectively, must be provided.
- Copies of checks (both front and back), letters or other documents applicable to the account and claimed error must accompany the written objection.

**Other Remedies** The Association reserves the right to avail itself of any other remedy permitted by law and the Association’s governing documents to collect Assessments and related costs and charges, including but not limited to bringing an action in Small Claims, Justice or District Court. Such remedies may be taken in addition to or in lieu of any action already taken, and commencement of one remedy shall not prevent the Association from electing at a later date to pursue another remedy.

**Alternate Address** Owners should respond in writing or make payments to the address as directed by the Managing Agent. If no address is given, responses and petitions should be mailed to the Association at the following address:

**Mariposa Community Association  
2501 Parkway Avenue NE  
Rio Rancho, NM 87144**

The foregoing resolution amending the Delinquent Assessment Policy for the Association was adopted and made effective this 14<sup>th</sup> day of December, 2017.



Tim Brislin, President,  
Mariposa Community Association