



MARIPOSA COMMUNITY ASSOCIATION VIOLATION ENFORCEMENT POLICY

WHEREAS, the Mariposa Community Association (the "Association") has authority pursuant to the Community Charter for Mariposa Residential Property (the "Charter"), Chapter 8 to enforce the provisions set forth in the Bylaws, Charter, Rules and Policies for the Mariposa Community Association, as may be amended from time to time;

WHEREAS, the Board of Directors of the Association wishes to ensure compliance with the Association's governing documents and to maintain, preserve, enhance, and protect the property values and assets of the Association;

WHEREAS, on April 29, 2015, the Board of Directors previously adopted a Violation Enforcement Policy, which is hereby being amended;

NOW, THEREFORE, IT IS RESOLVED, that the following procedures and practices are established for the enforcement of violations of the use restrictions and design review provisions, and for the elimination of violations of such provisions found to exist in, or on about any property within the Association and the same are to be known as the "Violation Enforcement Policy" of the Association in the discharge of its responsibilities for determination and enforcement of remedies for violations within the community.

1. Establishment of a Violation - Violations of the Charter and other Governing Documents shall include, but not be limited to, the following:
 - a. Architectural - Improvements of any kind or nature erected, placed or altered on any Unit, which are visible from neighboring property and have not been first approved by the Founder and/or the Sustainability Review Board.
 - b. Maintenance - Improper or inadequate maintenance of the Unit in violation of the Charter, as may be determined by the Board or the Association's managing agent.
 - c. Use and Occupancy Restrictions - Any activity or condition that exists upon any Unit that is in violation of the Use and Occupancy Restrictions described in Chapter 7 of the Charter or the Association's Rules and Regulations (as may be amended from time to time).
 - d. Violations of other Governing Documents - Any activity or condition that is in violation of Governing Documents including, but not limited to, the Association Rules, Guidelines for Sustainability and Tract Charters, as may be established and amended by the Board of Directors from time to time.
2. Notification and Hearings - The following procedures have been established for the distribution of violation notices, the process for appeal hearings, and the imposition of

sanctions/fines for ongoing violations of the Charter and other Governing Documents. The Board of Directors endeavors to enforce the Charter and other Governing Documents uniformly; however, the Board of Directors reserves the right to take into account the nature of the offense, the number of occurrences and violations noticed, and any other relevant factors as determined by the Board of Directors.

Courtesy Letter (Optional) - Upon the discovery of a violation, the Board of Directors may send a courtesy letter to the Owner informing them of the violation and requesting that it be remedied. The notice will include the following:

- The nature of the violation and/or action needed to remedy the violation.
- The date the violation was observed.
- The amount of time in which the violation must be corrected.
- The provision of the governing documents that was violated.

Notice of Violation - If a satisfactory response is not obtained within 14 days (or such other timeframe stated in the courtesy letter), or if the Board of Directors elects to forego the courtesy letter, the Board of Directors may send a violation letter to the Owner (“Notice of Violation”). The Board or its delegate shall serve the alleged violator with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, and (c) that the alleged violator has 14 days from the date of such notice to respond to the notice of the alleged violation in writing or cure the alleged violation.

The alleged violator shall respond to the notice of the alleged violation in writing within such 14-day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board in writing within such 14-day period, the Board may, but shall not be obligated to, waive the sanction. Such waivers shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

Second Notice of Violation - If the alleged violator does not respond to the notice of the alleged violation in writing or cure the alleged violation within 14 days of the date of the written Notice of Violation, the Board or its delegate shall serve the alleged violator with a second written notice sent via certified mail describing (a) the nature and the date of the alleged violation, (b) the proposed sanction to be imposed, and (c) that the alleged violator shall have 14 days to present a written request for a hearing.

Notice of Sanction - If the alleged violator (a) does not cure the violation, (b) present a written plan to correct the alleged violation, or (c) present a written request for a hearing within 14 days of the second notification, the Board or its delegate shall serve the alleged violator a third written notice sent via certified mail describing (a) the nature of the violation, and (b) the commencement date of the sanction.

Prior to effectiveness of sanctions imposed pursuant to the Charter, proof of proper notice shall be placed in the minutes of the Covenants Committee if appointed, or the Board, if a Covenants Committee has not been appointed, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of

delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

Hearing - If a hearing is requested within a 14 day period, a hearing shall be scheduled and held before the Covenants Committee, if appointed, or the Board, if a Covenants Committee has not been appointed. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meetings of the Covenants Committee shall contain a written statement of the results of the hearing (*i.e.*, the Committee's decision) and the sanction, if any, to be imposed.

If a timely request for a hearing is not made, the sanction stated in the Notice of Sanction shall be imposed; provided the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within a 10 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

3. Sanctions and Fine Procedures – The Board may impose sanctions for violations of the Governing Documents, including those listed below and any others described elsewhere in the Governing Documents. After written notice and an opportunity for a hearing in accordance with the Bylaws, the Board may:
 - a. impose reasonable monetary fines, which shall constitute a lien upon the violator's Unit. In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);
 - b. suspend an Owner's right to vote (except that notice or hearing is required if the Owner is more than 90 days delinquent in paying any Base or Special Assessment);
 - c. 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;
 - d. suspend services the Association provides (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 to the Association);
 - e. exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents);

- f. without liability to any Person, preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Chapter 5 of the Charter and the Guidelines for Sustainability from continuing or performing any further activities in Mariposa;
- g. levy Specific Assessments to cover costs the Association incurs in bringing a Unit into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and
- h. record a notice of violation or noncompliance with respect to any Unit on which a violation exists.

Monetary Fine Schedule -

Violation Sequence	Fine Amount
Second Notice of Violation	\$25.00
Continuing Violation(s) and all subsequent Notices of Violation	An additional \$25.00 for every 14 days the violation persists, or as otherwise determined by Board, up to \$1,000.00 or \$100.00 per day

The Board generally intends to levy monetary fines relating to a Second Notice of Violation (not the initial Courtesy Notice) according to the Fine Schedule; however, the Board reserves the right to levy a monetary fine in a different amount, including daily, weekly, or monthly penalties for recurring offenses, as determined in its discretion based on the nature of the offense, the number of violations, and any other relevant factors as determined by the Board of Directors. Furthermore, with respect to subsequent Notices of Violation beyond those listed on the Fine Schedule, the Board shall determine the amount of the monetary fine at its discretion by considering the same factors noted above. The amount of any monetary fine so established by the Board of Directors shall range from a minimum of \$25.00 to a maximum of \$1,000.00 for one-time penalties; daily, weekly, or monthly penalties for recurring violations may be levied in amounts of up to \$100.00 per day. The Board also reserves the right to suspend the monetary fines for certain ongoing violations to give the Owner(s) a reasonable time period, as determined in the sole discretion of the Board, to address them. If the Owner(s) fail to do so within the prescribed time period, then the Board may impose all the monetary fines that accrued retroactively from the date of the original Second Notice of Violation. The Board reserves the right to exercise any means allowable by New Mexico law to collect the monetary fines imposed.

The Board or Covenants Committee, if appointed, may impose reasonable daily/weekly/monthly monetary fines for each subsequent day/week/month of the violation and such continuing penalties shall continue to accrue until the Owner notifies the Board or its delegate that the violation has ceased and it has been confirmed that the violation has been resolved.

Recurring or Continuing Violations - If a violation ceases but reoccurs again within a ninety (90) day period from the date of the first violation, it will be considered a recurring

violation from the prior offense. The Association will send a new Second Notice of Violation, which will give the Owner notice of the new occurrence of the same violation and give the Owner an opportunity to request a hearing and 14 calendar days to contest the violation before a monetary fine is imposed. However, the sanctions and/or monetary fines may be imposed retroactively to the date of the violation notice.

4. Appeal Process - Following a hearing before the Covenants Committee, if appointed, the violator shall have the right to appeal the decision to the Board. To exercise this right the violator must deliver a written notice of appeal to the Association's Community Manager, President, or Secretary within 10 days after the hearing date, or any other time period that an Owner has a right to contest as created by statute. If a Covenants Committee has not been appointed and a hearing is held before the Board, the violator shall not have a right to appeal the decision to the Board.
5. Other Remedies - The Board of Directors reserves all remedies, including the right to bring an action for injunctive relief, at any time, regardless of the presence or absence of notices hereunder, for any violation that the Board of Directors determines in its sole and absolute discretion constitutes a material danger to persons or property or requires immediate action for any other substantial reason.

Subject to the requirements of the Governing Documents and New Mexico State Law, at anytime, as determined in the sole and absolute discretion of the Board of Directors, the Association may choose to forego the Courtesy Notice or any additional Notices of Violation in favor of other available enforcement remedies including (per Chapter 8, Section 8.2(b) of the Charter), but not limited to, exercising self-help, requiring a Neighborhood Association to perform maintenance, or immediate action by its legal counsel as authorized by the Governing Documents, and applicable law.

Legal Action - The Board of Directors may enlist the services of legal counsel at any time during the violation process. Legal counsel may send an enforcement demand letter to the Owner(s) allowing a reasonable period of time to cure the violation and remit any unpaid fine balances. If either the violation has not been cured or the fines have not been paid in the prescribed time, the attorney may recommend further legal action to the Board of Directors. No further legal action will be taken without prior approval by the Board of Directors. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs reasonably incurred in such action.

The foregoing resolution amending the Violation Enforcement Policy for the Association was adopted and made effective this 14th day of December, 2017.



Tim Brislin, President,
Mariposa Community Association