

**Marlborough Mesa Villas Association, Inc.**  
**Rules and Regulations**

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**MARLBOROUGH MESA VILLAS**  
**AMENDED & RESTATED**  
**RULES AND REGULATIONS**

This Amended and Restated Marlborough Mesa Villas Rules and Regulations is made effective as of this 6<sup>th</sup> day of August, 2002, by Marlborough Mesa Villas Association, Inc., an Arizona Corporation; and shall amend and restate in its entirety that certain Marlborough Mesa Villas Rules and Regulations recorded August 28, 1991, at Maricopa County Recorder's Number **91-401171** (the "**Rules and Regulations**").

**WITNESSETH**

WHEREAS, The Declarant executed in that certain Amended and Restated Declaration of Horizontal Property Regime and Declaration of Horizontal Property Regime and Covenants, Conditions & Restrictions (the "**Declaration**") dated December 9, 1983 and recorded December 12, 1983 as Instrument No. **83-495545** in the Official Records of the Maricopa County, Arizona Recorder which affects that certain real property described (the "**Property**") and more fully described in the Plat of Marlborough Mesa Villas recorded in Book 251 of Maps, page 24, Recorded in Maricopa County, Arizona (hereinafter the "**Plat**"); and

WHEREAS, the Declaration in Sub article 6.1 thereof, provides that the "affairs of the Association shall be conducted by the Board of Directors ("**Board**") and such officers and committees as the directors may elect and appoint, in accordance with, the **Articles** and the **Bylaws**; and

WHEREAS, the Declaration in Sub article 6.2 thereof, provides that "By a majority vote of the Board, the Association may, from time to time and subject to the provisions of the Declaration, adopt, amend, and repeal rules and regulations. The Association Rules may, among other things, restrict and govern the use of any area by any Owner,..."; and,

WHEREAS, the Board desires to adopt, amend and repeal **Rules and Regulations**; and,

NOW, Therefore, the undersigned Board hereby amends and restate in their entirety, the **Rules and Regulations** as follows:

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### **PREFACE**

Living in your new home can be a rewarding experience, both joyous and profitable, especially at Marlborough Mesa Villas. With this in mind these Rules & Regulations were compiled by your Association Directors in conformance with the Declaration for Marlborough Mesa Villas, for the purpose of protecting your property, its value, and making this a more pleasant place to live. Your cooperation is essential. Rules do not exist for every situation, so always be considerate of your neighbors. The rules of good citizenship and courtesy shall apply at all times.

All Homeowners have been provided with a copy of the Declaration for the community. Please read this document, especially Articles IV and VIII, since it sets forth the rights, duties, and obligations of each homeowner. The following Rules and Regulations supplement and/or more clearly define portions of the Declaration. Please read the Declaration and the Rules and Regulations carefully and be sure that you understand them.

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### GENERAL RULES

These rules are intended for all Owners; all Owners' Tenants; and all occupants, guests, and invitees of Owners and of Owners' Tenants. Everyone must abide by the rules. Although the rules, as set forth below, describe Owners responsibilities, to insure that there is no misunderstanding that the rules apply not only to Owners, but to everyone: when a unit is rented by an Owner to a Tenant, wherever "Owner" is indicated below, "Tenant" shall be inserted in place of "Owner" indicating that all Tenants, Tenant's occupants, Tenant's guests and Tenant's invitees must all comply with the rules in the same manner as if the Tenant, Tenant's occupants, Tenant's guests and Tenant's invitees were actually the Owner. However, ultimately, Owner is responsible for all of Tenant's actions and inaction, Tenant's guest's actions and inaction, Tenant's invitees actions and inaction and Tenant's occupant's actions and inaction. As follows:

- 1. OWNERS**, Tenants, guests or invitees must abide by Marlborough Mesa Villas Declaration, Bylaws, and Rules & Regulations (collectively referred to as the "**Governing Documents**"). Homeowners are responsible for actions of their Tenants, guests, and/or invitees. Owners are required to fill out a Owner/Tenant Information sheet, (Exhibit C), and return it to the Management Company within 10 days of the close of escrow.
- 2. ANY HOMEOWNER** who leases his/her unit must provide the Association with a statement signed by the Tenant stating that he/she has received a copy of the **Declaration**, the **Rules and Regulations**, and a **Vehicle Registration Form**, indicating the date the **Tenant** received them. This information must be sent to the Management Company. Failure to provide the above information may result in fines under the [Fining Policy](#).
- 3. MODIFICATIONS** changes, additions, and or alterations to the structure or landscape visible from any location within the Common Elements, must have written approval from Marlborough Mesa Villas Architectural Control Committee. Send all requests to:

Marlborough Mesa Villas  
c/o Heywood Realty & Investment, Inc.  
1834 E. Baseline Rd. Suite 102  
Tempe, AZ 85283  
Phone: (480) 820-1519 e-mail: [dave@heywoodrealty.com](mailto:dave@heywoodrealty.com)

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Any structural changes to the interior of the unit must also be approved by the Architectural Committee. Any changes additions and or alternations that are installed without prior written approval may be disapproved and the homeowner will have to remove the installation at his/her expense.

4. **RENTAL** of a unit for less than twelve months is prohibited.
5. **CURFEW:** No person under sixteen (16) years of age shall be allowed in any common area from 10:00 PM to 5:00 AM, unless accompanied by an Owner or Tenant. Any person between sixteen (16) and eighteen (18) years of age may not be in a common area from 12:00 PM to 5:00 AM, unless accompanied by an Owner or adult Tenant. Please refer to; **City of Mesa City Code: [Title VI, Chapter 6, Section 1.](#)**
6. **BUSINESS:** No unit Owner or Tenant may conduct or be involved in any type of business enterprise within the community (rental and sales officers of the Association excluded) without express written permission from the Board of Directors. An occasional “patio sale” is permitted, but nothing may be displayed in the common area or on any fence. The word “occasional” for this paragraph shall mean not more than once in any four month period.
7. **COMMON AREAS** may not be used for storage purposes. NO items, including but not limited to trash, papers, bicycles, toys, garbage cans and garden hoses may be placed or kept on the Common Elements. No such items are allowed to be left outside in plain view at any time.
8. **NOISE:**
  - a) No residents, nor guests shall permit a radio, stereo, television or other device to be played loud enough to disturb other residents, either from his/her unit, the pool, parking or any other common areas.
  - b) No resident shall create, nor allow a guest to create, at any time a noise level that is disturbing or offensive to other residents either from a common area or from within his/her own unit.
9. **ADVERTISING SIGNS**, Billboards, “For Rent”, and “For Sale” signs, etc. ARE NOT permitted unless approved by the Architectural Control Committee.
10. **SPEED LIMIT** on the Association streets is **10 miles per hour**. Please drive courteously.

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**11. ASSESSMENTS** are due and payable on the first (1<sup>st</sup>) of each Month. Any payments not received by the last day of the current month will have a \$15.00 Late Fee charged to the delinquent homeowners account. If payment is not received within sixty (60) days of the due date, the property will be liened, and the delinquent homeowner's account will be sent to the Association's Legal Counsel for collection through any legal means possible, with the cost of said collection charged to the delinquent homeowner's account.

### **12. TRASH**

- a) All trash must be placed inside the dumpsters, and the lid is to remain closed at all times in compliance with the [Maricopa County Environmental Health Codes](#), (Chapter II; Section 3, Regulation 2) as well as (A.R.S. 36-167, 36-184, 36-187.C., 11-251 Paragraphs 17 and 31, 11-251.05, 11-251.08, 49-106, and 49-107).

### **13. IRRIGATION SYSTEM**

- a) The Irrigation System is maintained by the Association. Any private modification or tampering is strictly prohibited.

### **14. PARKING**

- a) Each Unit has two (2) parking places within the garage designated for the use of the resident. All Resident Vehicles must be parked, whether temporarily or permanently, within these garages, unless the Resident has acquired a [Reserved Parking Space](#) from the Association.
- b) The Community has Forty One (41) parking spaces in the Common Areas belonging to the Association, including one (1) **Handicapped Parking Space**. This leaves Forty (40) parking spaces available for parking overflow needs of the Community. These Forty (40) parking spaces are further divided into Fifteen (15) **Reserved Parking Spaces** and Twenty Five (25) **Visitor Parking Spaces**.
  - i. **HANDICAPPED PARKING SPACE** is for the exclusive use of vehicles displaying either a Handicapped Vehicle License Plate, or a prominently displayed Handicapped Parking Permit per **City of Mesa City Code: [Title X, Chapter 3, Section 21, Subsection k](#)**. Violation of the aforementioned City Code can result in the immediate towing or ticketing of the vehicle at the vehicle Owners' expense. **No prior notification need be given.**

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- ii. RESERVED PARKING SPACES are spaces made available on a first come, first serve basis, subject to a monthly parking permit fee as indicated on the **Reserved Parking Permit Application** (Exhibit “B”) and subject to such additional parking rules and restrictions as stated on the attached **Parking Permit Application**, (Exhibit “B”), herein incorporated by reference.
  - iii. VISITOR PARKING SPACES are spaces made available for visiting **Guests’** or **Invitees’** use. TENANTS SHALL NOT BE CONSIDERED GUESTS and/or INVITEES, they are RESIDENTS and are not permitted to use Visitor Parking Spaces.
  - iv. Any visitor’s vehicle that is noted to be parking in Visitor Parking Spaces on more than eight, (8), (i.e.: 50%) of the calendar days in any two, (2), week period shall be subject to any and all fines outlined under the [Parking Fining Policy](#).
  - v. ANY unauthorized vehicles found to be parked within the [Reserved Parking Spaces](#) or the [Handicapped Parking Space](#) may be towed without notice at the vehicle Owner’s expense.
- c) ANY VEHICLE parking in the **Private Drive**, (that is all of the streets contained within the community), may be towed WITHOUT NOTICE at the Owner's Expense. This includes any vehicle parked in front of the garages and dumpsters or otherwise between “**No Parking**” signs. Any parking within the drive is a violation of the **City of Mesa Fire Code**.
- i. [Title X, Chapter 3, Section 21, Subsection m](#) of the **City of Mesa’s City Code** reads:  
“Obstructing a Fire Lane. The required width of access roadways shall not be obstructed in any manner. No person shall stop, stand, or park any vehicle within a fire lane, whether on public or private property, provided that appropriate signs and other markings, as approved by the Fire Chief, shall be erected and maintained in order for this regulation to be effective. (3530)”.
  - ii. Violation of the afore mention City Code can result in the immediate towing or ticketing of the vehicle at the vehicle Owners’ expense. **No prior notification need be given.**
- d) NO vehicle, mobile home, motor home, recreational vehicle, boat, trailer of any kind, truck, camper or tent, or similar vehicle (operable or inoperable) shall be kept, parked, placed, maintained, constructed

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or repaired on any portion of the Condominium unless completely enclosed within a garage. An “Inoperable Vehicle” is defined as but is not limited to the following conditions.

- i.** Vehicle is missing wheels, tires, engine, transmission, axle, driveshaft, or any other component required for the safe and/or legal operation of a motor vehicle on city streets.
  - ii.** Vehicle is visibly unable to function due to damage.
  - iii.** Vehicle has been abandoned.
  - iv.** Vehicle does not display valid license plates.
  - v.** Vehicle’s tags are missing or are expired.
  
- e)** Any vehicle deemed to be in an inoperable condition may be towed at the vehicle owner’s expense. No prior notification need be given.
  
- f)** RESIDENTS (Owners or Tenants) **must register** with the Management Company ALL of their vehicles whether such vehicles are personal, company cars or otherwise used by them personally, using the attached **Resident Vehicle Registration Form**, (Exhibit “A”). This includes any vehicle(s) that are parked inside the Units’ garage. Failure to do so may result in violation fines, as prescribed in the [Fining Policy](#) section of these Rules and Regulations.
  
- g)** Applications for Reserved Parking Spaces for the parking of any commercial vehicle (herein defined as any vehicle having commercial license plates, or advertisement, company names or phone numbers painted or otherwise visibly displayed on a vehicle) **must be approved by the Board**. Board approval or denial of Commercial Vehicles shall be based upon, but not limited to, size of vehicle, color, amount of advertising, and particular vehicular modifications that the vehicle may have. This is to ensure that;
  - i.** The visual integrity of the property is maintained.
  - ii.** The safety of the Residents will not be diminished.

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### 15. PETS

- a) Every pet Owner shall maintain the exterior harmony and beauty of the community. Dogs, cats and other household pets may be kept. However, breeding or maintenance of pets at the property for any economical gain is prohibited.
- b) Should pets defecate anywhere within the community, the Owner shall immediately clean up the mess. Noise from pets, especially late at night, is not allowed.
- c) A leash law is in effect in the City of Mesa (**Mesa City Code; [Title VI, Chapter 4 Section 7 Subsections C and D](#)**) and at Marlborough Mesa Villas. Therefore, pets are not permitted to roam free, regardless of the time of day.
- d) Animals may not be chained in any common area, including, but not limited to, the area in front of or around the front door or outside the patio. All pets must be kept within each Owner's unit and/or patio area only. If you do not have a fence or block wall then pets must be kept within the unit.
- e) Animals displaying vicious behavior shall be immediately removed from the community without notice. What constitutes vicious behavior shall be decided upon by the sole discretion of management.
- f) City and / or County animal laws for citations and fines will be charged to the Owners of dogs that are turned out and have no supervision. Owners should notify the management company when animals are running free.
- g) Owners shall be subject to the imposition of a notice, hearing and a fine for any violation.

### 16. POOL

- a) The following rules and regulations have been established for the welfare of all Owners and also to prevent damage to the common area and common equipment. Anyone breaking these rules may lose pool privileges for up to sixty days for each occurrence.
  - i. All persons swim and use the pool at their own risk. **NO LIFEGUARD IS EVER ON DUTY.**

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- ii.** The gate to the pool area must be kept locked at all times. This is necessary to protect all Owners. Further, City ordinances do not allow open gates.
- iii.** The pool keys may not be loaned to non-residents. Entry by climbing over the fence is also not allowed.
- iv.** Lost keys for the pool may be replaced by calling the Management Company. A \$10.00 charge will be assessed and must be paid before replacement of a lost key.
- v.** The pool is to be used only by Residents and guests of Residents. Any ineligible, non-conforming or otherwise undesirable person or persons using the facilities will be precluded from use. A Resident must accompany every guest at all times. Maximum of four (4) guests per unit are allowed in the pool area at any one time.
- vi.** No pets are allowed in the pool area at any time.
- vii.** No glass containers may be brought into the pool area at any time. Cigarettes are to be placed in proper receptacles. Food is to be confined to tables only.
- viii.** Running, undue splashing, horseplay, spitting or obscene language are not allowed.
- ix.** Only persons dressed in swimming suits will be allowed in the pool. No cutoffs of any type are permitted, unless clean and hemmed with no ragged edges inside or out. No other street wear is allowed in the pool. Toddlers in diapers must wear rubber pants with well fitting elastic legs over diapers when in the water.
- x.** Pool play equipment shall be limited to small rings and balls. Large play equipment such as air rafts may be used if they are not any annoyance to other swimmers. No BLACK swim fins, boats, inner tubes or styrofoam equipment are allowed. SAFETY EQUIPMENT is for EMERGENCY USE ONLY.
- xi.** Only battery operated radios and CD players are allowed in the pool/cabana area. Electrically operated radios and CD players are prohibited. Radios and CD players will be prohibited if the noise level is disturbing other residents either inside or outside the pool area.

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- xii.** Persons using the pool must respect their neighbors' rights to peace and quite and keep the noise to an absolute minimum. Anyone under the age of majority (18 years old) must be accompanied by an Owner (or lessee, if unit is rented to a Tenant) between the hours of 6:00 PM until 10:00 PM. The pool will be closed and locked at 10:00 PM nightly.
  - xiii.** When using pool facilities, Occupants or Owner's guests under fourteen (14) years of age must be accompanied by an Owner (or lessee, if unit is rented to a Tenant) at all times.
  - xiv.** Throwing of foreign matter or debris into or about the pool can cause pool closure to reestablish a chemical balance to satisfy the requirements of County Health Department, therefore the same is prohibited.
  - xv.** Pool furniture is to be used only for pool purposes.
  - xvi.** No intoxicated persons, or persons having infectious diseases shall use the pool at any time.
  - xvii.** Hair curlers, bobby pins and hairpins must be removed from hair prior to pool use. Suntan oils must be completely removed from the body before entering the pool.
  - xviii.** The pool shall not be used during repairs or maintenance or when it has been closed for any other reason. Any entry to the pool area while the pool is closed will be considered trespassing.
- b)** The pool may be reserved for private occasions for a time period up to two hours and for a maximum of two times per year. To schedule a private pool reservation, contact the Management Company. Hours available for private reservations are limited.
  - c)** Keys will be confiscated and Owners will lose pool privileges for violation of these rules. Owners shall be subject to the imposition of a notice, hearing, and a fine for any violation.

### **17. SKATEBOARDS AND ROLLER SKATES**

- a)** Users of skateboards, roller skates, etc. are required to give the right of way to pedestrians.

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### **18. TENANTS**

- a) Tenants, like Owners, are obligated to observe all policies governing our community. Tenants have the same duties as the Owner.
- b) Tenants may also be fined and evicted by management, if Tenant, Tenant's guests, invitees or occupants fail to comply. A statement of this nature shall be included in any Tenant's lease. However, this statement in no way limits the Owner from being completely liable for all of the Tenant's actions and inactions and the actions or inactions of Tenant's guests, invitees and occupants.
- c) Owners if also Landlords are required to fill out a Owner/Tenant Information sheet, (Exhibit C), and submit it to the management company prior to executing a lease agreement with a Tenant. If Owner currently has a Tenant and Owner has not filled out an information sheet, a Owner/Tenant Information sheet, (Exhibit C), must be submitted immediately.
- d) All Tenants are required to have a criminal background check.
  - i. No person or persons who has ever plead guilty or no contest, or been convicted of a felony that involved drugs weapons, theft, gangs, violence or the health, safety, welfare of others within the last five years will be allowed to reside in the community.
- e) Owner must provide a copy of these rules and regulations, and all other attachments, to any prospective Tenant prior to execution of any lease, and prior to submission of the Owner/Tenant Information sheet, (Exhibit C), to Management.

### **19. DAMAGES AND PAYMENT**

- a) If any property in the common area or common elements (i.e. landscaping, furniture, pool equipment, etc.) is destroyed or damaged through neglect and/or culpable act of any Owner, their guests, Tenants, or household member, the Association may make the repairs and bill the Owner such repair costs.
- b) The Board takes a serious view on vandalism and expects homeowners to report any damage witnessed by them involving any of the Association Common Elements. Please, understand that if the responsible

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party is not made to pay for their transgressions or damages, all of us, as Members of the Association, end up paying for such damage.

### **20. NOTICE OF VIOLATION**

- a) The Association shall have the right but not the obligation to record a written notice of violation to any Owner found to be in violation of any restrictions or provisions of the Governing Documents. The notice shall contain substantially the following information:
  - i. The name of the Owner or occupant in violation;
  - ii. The legal description or street address and number of the Unit against which the notice is being recorded;
  - iii. Brief description of the nature of the violation.
  - iv. Statement of the specific steps which must be taken by the Owner to correct and comply with the Governing Documents or applicable rule.
  
- b) Any Owner receiving a Notice of Violation from the Association or it's agent shall have the right to make a written appeal to the Board requesting a hearing by the Board with respect to the allowed violation. Owner may be present at any such Board Meeting held for deliberation of the appeal and may present any oral arguments directly to the Board in their defense. If any violation is not cured within ten (10) days after delivery of the Violation Notice the Association, may proceed with such steps that the Board may determine are necessary to cure said violation and the cost of any action approved by the Board to remedy the violation will be at the expense of the Owner. The Association will charge the Owner for any and all legal or other costs incurred in obtaining the compliance of the Owner with the Governing Documents.

### **21. VIOLATION PROCEDURE**

- a) All reports of violations of the Declaration, Bylaws and Rules & Regulations are to be referred to the Board and/or It's Agent.

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- b) A violation being reported by a Resident must be written, witnessed and signed by the Complaining Resident, and shall include a specific description of the problem.
- c) If the unit number or name of the violator is unknown the complaint cannot be received.
- d) If the Board feels that a violation is serious, warranting action by the Association, then a warning letter may be issued to the offending resident.
- e) If it is determined that this is a second or more notices required for the same or continuing violation fines shall be assessed in accordance with the [Fining Policy](#).
- f) When the fine is assessed, the Owner of record of the Unit will be given 10 days to respond. This grace period will not apply to violations that pose a health or safety risk to the Association, its members, or the Common Property.
- g) Homeowners will be given a minimum of ten (10) days to correct the cited violation or file an appeal with the Board, before another Notice of Violation is issued.

*NOTE: Every effort should be made to resolve any complaint in an amicable way, neighbor to neighbor. Ideally, complaints will be voluntarily resolved by the offending Resident, leaving no need for further notices, fines or punitive action.*

### **22. FINING POLICY**

- a) The Association shall have the right but not the obligation to record a written notice of fines to any Owner found to be in violation of any restrictions or provisions of the Governing Documents.
- b) Enforcement of the Declaration is, at times, difficult without the voluntary cooperation of the Residents, forcing the Association to incur expensive legal costs as a result of personal suits against violators of the Governing Documents.
- c) So that the Association may be better able to enforce these items the Board has adopted the following Fining Policy as the official position of Marlborough Mesa Villas Association, Inc creating the following fines, penalties and/or other charges as prescribed by the Declaration, Bylaws, Rules and Regulations or any other governing documents of the Association:

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- i. The first notice issued to an Owner by the Board or its Agent shall serve as a warning. Fines may or may not be issued, based upon review of the violation by the Board.
  - ii. The second notice issued for the same, substantially similar or continued violation shall result in a fine of no less than \$50.00 assessable to the Owner of Record of the Unit.
  - iii. The third notice issued for the same, substantially similar or continued violation shall result in another fine of no less than \$100.00 assessable to the Owner of Record of the Unit.
  - iv. The fourth notice issued for the same, substantially similar or continued violation shall result in another fine of no less than \$200.00 assessable to the Owner of Record of the Unit.
  - v. The fifth notice issued for the same, substantially similar or continued violation shall result in another fine in an amount to be determined by the Board at their discretion, assessable to the Owner of Record of the Unit.
- d) At anytime following the Second Notice, the Board may pursue any and all legal means of enforcement as prescribed by the **Governing Documents**.
- e) All fines incurred must be paid within 30 days of the date the fine was assessed, even if the offending Homeowner plans to or has already protested the violation. Such fines shall be paid under protest in order to avoid additional interests, penalties or collection costs incurred by the Association in the due process of collecting said fines.

### 23. PARKING FINING POLICY

- a) The first offense of a resident parking in a visitor parking space will result in the vehicle receiving a Warning sticker. *Residents may not park in Visitor Parking Spaces*. No fines will be assessed.
- b) A second offense will result in the issuance of a Violation Notice and a Fine of no less than \$50.00 assessable to the Owner of Record of the Unit associated with the vehicle. A Warning will be issued that the vehicle will be towed at the owner's expense on the next occurrence.

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- c) A third offense will result in the issuance of a Violation Notice, a Fine of no less than \$100.00 assessable to the Owner of Record of the Unit associated with the vehicle. The vehicle will be towed at the owner's expense.
- d) All subsequent offenses will result in the issuance of a Violation Notice, a Fine of no less than \$200.00 assessable to the Owner of Record of the Unit associated with the vehicle. The vehicle will be towed at the owner's expense.
- e) If a vehicle receives an inappropriate notice of violation, the vehicle's owner must contact the management company within three, (3), business days following the date of violation.

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IN WITNESS THEREOF, the Board has executed this Amended and Restated Rules and Regulations for Marlborough Mesa Villas, as of the date first set forth below. Marlborough Mesa Villas Association, Inc.,

By it's Board Members:

  
\_\_\_\_\_  
President – Michael E. Tracey

  
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Vice President – Nick J. Alati

  
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Treasurer – Jennifer Olaff

  
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Secretary – Linda Starr

  
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Public Relations – Amy Komitzky

**In Session this day, Tuesday, 17 June 2004**