

Monmouth Way Maintenance Association
Policy for Improved Deck Safety and Appearance
and Use of Common Elements/Limited Common Elements

Effective May 1, 2021

WHEREAS, Article XIV of the Amended Declaration, page 42, Section 14.04. Penalties and Fines, states that in addition, or as an alternative, to an action at law or suit in equity, the Board of Directors may, with respect to any violation of this Declaration or the By-Laws or rules and regulations of the Association, establish monetary and non-monetary penalties, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person, and

WHEREAS, Article XV of the Amended Declaration, page 48, Section 15.02. Fines, states that as set forth in Section 15.01. herein, the Association shall have the right to assess fines against a unit owner or its guests, relatives, or lessees. Such fines shall be deemed assessments and as such be enforced pursuant to Section 9.06 et al herein, and

WHEREAS, Article V of the Amended By-Laws, page 11, Section 5.13. Powers and Duties, states that “[t]he Board of Directors may exercise all the powers of the Association, except such as are conferred upon or reserved to the Owners by statute, the Certificate of Incorporation, the Declaration or these By-Laws. The powers, duties and authority of the Board of Directors shall specifically include, but shall not necessarily be limited to, the following:

- g to adopt reasonable rules and regulations or amendments thereto governing the uses of Association Property and facilities and the Common Elements, and the personal conduct of the Owners, lessees, and their guests thereon, and establish penalties for infractions thereof. Such rules and regulations and amendments shall be binding upon the Owners when the Board has adopted them in writing. A copy of such rules and all amendments thereto shall be delivered to each Owner and/or occupant.

NOW, THEREFORE BE IT RESOLVED THAT all owners, lessees and occupants of Lots, and their families and any other persons, partnerships, corporations, or other entities who may use

such lots in any manner are subject to the (a) rules and regulations, (b) violations and fines, and (c) enforcement procedures, as set forth below.

Introduction

Your deck (limited common element) and immediate outside area (common element) are an additional, outdoor space for your enjoyment. These areas need to be maintained in a manner cohesive to Association standards. An owner is responsible for all compliance whether their unit is leased or not.

Definitions

- Common Elements consists of all Monmouth Way Maintenance Association property, except for the units. See Declaration, §1.01 Definitions, (i) Common Elements.
- Limited Common Elements are defined as the following portions of the common elements and are restricted in use: outdoor parking spaces, if assigned; mailbox assigned to specific unit; and deck or patio appurtenant to a specific Unit. See Declaration §6.01, Limited Common Elements.
- outside entrance door – see Appendix for visual of outside door definition.

Decks and immediate outside area of one's unit are considered what is known as a Limited Common Element, which is designated in the Declaration, Article I, Section 1.01, subsection r. as "[t]hose portions of the Association Property which, pursuant to Section 6.01 hereof, are restricted in use to specific Owners." Section 6.01 of the Declaration states, in part ". . . the following portions of the common elements are restricted in use in as specified below:

- a. outdoor parking spaces, if assigned;
- b. mailbox assigned to specific Unit; and
- c. deck or patio appurtenant to a specific Unit."

Justification

- Safety
- Maintaining an impartial, unobjectionable, and inoffensive community
- Cohesive appearance
- Health hazard
- Rodent/Pest control
- Code enforcement

The following items are allowed on decks

- Lawn furniture and outdoor patio furniture
- Patio accessories
- Small outdoor storage container no higher than the deck railing
- Decorative plants
- Electric grills
- American Flag
- Firewood in proper wood holder, away from the deck walls and off the floor; no more than one face cord of wood may be stored on the decks
- Seasonal decorations, i.e. Christmas, Fall, Easter, etc. -- decorations must be removed within 15 days after the holiday.

Allowed in immediate area outside unit door (see Appendix A for photo description)

- Minimal decor
- Seasonal plants
- Seasonal decorations

The following items are not permitted on decks or common areas

- Flags other than American flag
- Motorized vehicles
- Combustible liquids
- Food storage
- Garbage and garbage cans
- Furniture and accessories intended for indoor use, including but not limited to, couches, mattresses, beds, TV's, chairs, indoor carpeting, hutches, side tables, discarded sinks, toilets, desks, computers, etc.
- Recyclables
- Domestic house pets without supervision (dog or cat)
- Farm animals of any kind
- Reptiles, birds, fish
- Tarps
- Grills (gas, propane, smokers, charcoal), open flamed items, propane tanks and cylinders
- Kayaks, sport vehicles, sporting equipment, bicycles, tents, canopies
- All open flame appliances, including fire pits, lights such as tiki lights/torches
- Appliances of any kind, such as refrigerators, stoves, washers, dryers, etc.
- Building and construction supplies, including but not limited to, lumber, concrete blocks, wall board, interior or exterior doors, etc.

- Any other items the Board of Directors deems unfit for the safety, convenience, or appearance of the Common Property, and Limited Common Elements

External Change Form

External change forms need to be submitted to the managing agent for any items that will be permanently affixed to the exterior of the buildings. This includes flag poles and plant hangers. After approval, flag poles are only to be placed on decks.

The removal of any plants/shrubs, regardless of who planted them, without the permission of the Board of Directors is prohibited. All requests must be submitted on an external change form.

Penalties

- First notification by certified mail, compliance is expected within 7 days.
- Second Warning given after 7 days and a \$25.00 fine with compliance expected ASAP.
- After 14 days from the original warning a \$50 fine will be imposed.
- After 21 days from the original warning all offending item(s) will be removed by Management and the cost of such removal (in excess of \$75.00) will be added to the homeowner's assessment.
- Any storage fees incurred for removed items will be the responsibility of the owner

The Monmouth Way Homeowners Association Governing Documents and Policies are available at www.monmouthway.org.

APPENDIX A



2nd floor immediate area



1st floor immediate area