

**SIXTH REVISED AND
AMENDED RULES AND
REGULATIONS
OF THE FORT MARCY COMPOUND CONDOMINIUM
ASSOCIATION**

Effective 02 MAY 2021

INTRODUCTION

This document supersedes and replaces all previous versions of the Rules and Regulations and is adopted by the Board of Directors (hereinafter, the Board) under the authority of the Third Amended and Revised Condominium Declaration for Fort Marcy Compound Condominium Association effective May 14, 2011 (hereinafter, the Declaration) and the Third Amended and Restated Bylaws of Fort Marcy Condominium Association effective May 14, 2011 (hereinafter, the Bylaws). These Rules and Regulations apply to all owners, family members, guests, tenants, occupants, contractors, employees, and agents, including the condo-hotel operator and its successors.

RULE 1. ACCESS TO PROPERTY

Common sidewalks, pathways, driveways, or entrances to Units and buildings shall not be obstructed or used by any person so as to hinder ingress, egress, and passage to and from Units, and buildings on the Property.

RULE 2. PLACEMENT OF OBJECTS

No objects or articles shall be placed on, in, or over any of the General Common Elements, except for those articles that are the common Property of all of the Unit Owners, except that Owners may place approved objects or articles in and on the General and Limited Common Elements, as stated in these Rules and Regulations.

RULE 3. VEHICLES

A. Vehicles cannot be brought onto the Property without the consent of a Unit Owner, a family member, guest, tenant, lessee, contractor, or employee. Such vehicles shall be allowed only on the designated parking lots and driveways and shall be properly stopped or parked only in a marked parking space in such manner as not to impede or prevent ready access to any entrance to, or exit from, a parking lot, pathway, or Unit. Open storage of vehicles is prohibited on the Property. Any traffic flow markings and signs regulating traffic on the Property shall be strictly observed.

B. Bicycles may not be ridden or otherwise used anywhere on the Property but may be kept inside a Unit with Owner's consent for use off the Property.

RULE 4. OBJECTIONABLE SOUND OR LIGHT

The Unit Owner, family member, guest, tenant, lessee, contractor, or employee of a Unit Owner shall exercise reasonable care to avoid making or permitting loud, disturbing, or objectionable noises, or disturbing or objectionable lighting effects of whatever kind, including but not limited to using, playing or permitting to be used or played, musical instruments, radios, phonographs, tapes, CDs, or digital recordings, television sets, amplifiers, or any other sound or light instruments or devices in such manner as may disturb, or tend to disturb, the Unit Owner, family member, guest, tenant, lessee, or occupant of another Unit.

RULE 5. GARBAGE AND TRASH

All trash and garbage on the Property must be deposited in the trash compactor located near the storage lockers in Parking Lot E. No garbage or trash of any kind shall be left on the ground anywhere on the Property. If garbage or trash is too large to fit in the compactor, it must be removed from the Property, by the Unit occupant(s) and/or Owner's agent. All large items, such as, but not limited to, furniture, (sofas, mattresses, carpets), appliances (stoves, refrigerators, ovens), and similar items, must be removed from the premises by the Owner, or the Owner's agent, tenants, or any occupants at their expense. It is the Unit Owner's responsibility to make arrangements with any agent, tenant, guest or occupant to ensure this Rule is not violated. The Unit owner shall be responsible for any violation of this rule, and shall be charged all costs, plus a fine of \$50 for the first violation, and costs plus a \$100 fine (minimum) for each subsequent violation.

RULE 6. ANIMALS AND PETS

A. Board approval must be obtained before keeping, maintaining, or harboring any animals or pets (including, but not limited to, dogs, cats, birds, guinea pigs, gerbils, or any other type of animal) in or on the Property, even temporarily. The Board has the right to determine whether a specific animal or a specific type of animal will be allowed in or on the Property, and may review each request on an individual basis. Only Unit Owners may apply for and receive advance written approval of the Board, including approval on behalf of a tenant with a lease term of six months or more. Approved animals must be owned and cared for by a Unit Owner, or a tenant of the Owner with a lease term of six months or more. Shorter term renters and guests may not keep, maintain, or harbor any animal on the Property. Other than in exceptional circumstances, a maximum of two animals will be permitted per Unit. No farm, undomesticated, or dangerous animal may be kept, maintained, or harbored on the Property at any time. Properly certified assistance animals are permitted on the Property for the stated purpose only without prior permission.

B. Additional requirements for keeping, maintaining, or harboring an animal on the Property are:

1. The animal must be under human supervision and always kept on a leash when the animal is in or on any General Common Element or Limited Common Element of the Property.
2. The animal must, at all times and places, be kept, maintained, and harbored in such manner that the animal's presence and activities do not disturb, or tend to disturb, any Owner, family member, guest, tenant, or occupant of other Units,

or become a nuisance.

3. Excrement from the animal must be picked up and properly disposed of by the human having control of the animal.
4. The animal must be properly licensed and registered and must be current on all vaccine shots. In addition to any other requirements the Board may impose, the Owner must provide proof of these same to the Board prior to bringing or having the animal on the Property.

C. The Unit Owner will be held responsible and liable for any and all expenses, problems or penalties due to keeping, maintaining, or harboring animals on the Property. Any violation of any requirements in this Rule may result in fines or other penalties as detailed in Rule 20, below.

D. The association, property manager, or any agent of the same may remove, or cause to be removed, any animal, deemed to be in violation of these rules and/or a nuisance or threat to others. They may deliver it to appropriate local authorities after at least 24-hour written notice to Unit Owner of the intention to remove any animal, except when dangerous circumstances require more rapid removal. Unit Owner will be charged the cost of removal of any animal. Unit Owner is also responsible for the repair of any damage to any General Common Elements or Limited Common Elements caused by an unauthorized animal or by failure to comply with any of the requirements of this Rule. When taking action under this paragraph, the association, property manager, or their agents will not be liable for any harm, injury, death or sickness to any animal.

RULE 7. LOCKS AND KEYS

A. The Board shall retain a passkey to each unit and shall designate the persons or entities authorized to control and use the pass key and under what circumstances. No Owner shall alter any lock or install a new lock on any door leading into the unit without prior written consent of the Board of Directors, and, if consent is given, the Owner shall provide a key for such lock to the Board.

B. Management or any other person authorized by the Board shall have right of entry, by force in the event of an emergency originating in or threatening the Unit, or when prudence or uncertainty dictates entry, whether the resident is present at the time, or not, or whether a key is immediately available or not.

C. If the Owner fails to provide the proper key to the Board of Directors, the association, Property Manager, or agent of the association or property manager shall have the right, at Owner's expense, to have a locksmith unlock the door, or to force entry through a door or window to obtain access. When taking any action under this paragraph, the association, property manager, or any agent of the association or property manager will not be liable for any costs or damage to the Unit or its contents.

RULE 8. DAMAGE TO THE PROPERTY

Any damage to General Common Elements or to Limited Common Elements caused by a Unit Owner or a family member, guest, tenant, lessee, contractor, or employee of a Unit Owner, shall be repaired at the expense of that Unit Owner.

RULE 9. CHANGES, MODIFICATIONS AND ALTERATIONS

No modification, change, or alteration shall be done upon the General Common Elements, or the Limited Common Elements (See also: Rule 11), or structural elements of a Unit by any Unit Owner, or family member, guest, tenant, lessee, contractor, or employee of a Unit Owner, without advance written approval of the Board of Directors. When approved, the above alterations shall be the responsibility and expense of the Unit Owners receiving Board approval, unless the Board shall determine otherwise. Contractors and others employed to do such work must be bonded, insured professionals capable of performing the work properly and must comply with industry standards and local codes. Required licenses and permits must be displayed.

RULE 10. PORCHES AND BALCONIES

A. Porches and balconies are Limited Common Elements appurtenant to each Unit and must be kept neat and orderly and free of tarpaulins and stored items of any kind. Any chairs, stools, or tables, kept on these limited common elements overnight, must have structural support members (legs, arms, and frames) made of wood or metal.

B. Owners with wood burning fireplaces or stoves inside a Unit are required to purchase, use, and properly place approved metal racks at ground level. The purpose of this requirement is the control of wood-boring insects and rodents. A list of approved racks may be obtained on the Owners Website and from the Managing Agent.

C. Containers, bins, boxes, or shelving, which are manufactured for or primarily used for storage, may not be placed on limited common elements or general common elements. Porch and balcony furniture incidentally used for keeping items but primarily used for other purposes are not prohibited by this rule.

RULE 11. LIMITED COMMON ELEMENTS (LCE) APPURTENANT TO A UNIT

A. Maintenance, repair, and replacement of Limited Common Elements (LCE) related to one Unit (e.g. exterior doors, windows, skylights, and utility lines) are the responsibility of that Unit Owner. The Owner may not make structural changes or major repairs to LCEs of a Unit without advance written approval of the Board of Directors. Contractors and others employed to do such work must be bonded professionals capable of performing the work properly and must comply with industry standards and local codes. Necessary licenses and permits must be displayed.

B. To maintain a standard appearance and quality on the exterior of all Units, only approved styles, colors, makes, and models of exterior doors, windows, and hardware are permitted. A list of these approved items can be obtained on the Owners Website and from the Managing Agent.

C. All spigots extending outside a Unit are LCE. They are the responsibility of the Unit owner, and must be maintained, repaired, and replaced by the Unit Owner. This includes ensuring spigots are freeze-proofed. No irrigation system is allowed without the Board's written approval of:

1. The required installation of an approved anti-syphon valve (ASV) and

2. The drip-irrigation system. These spigots may be used without an ASV for simple, limited hose-watering during daylight hours provided owner or renter is present and supervising, and provided the hose is removed from the spigot and stored inside the Unit or off the Property when not in use.

RULE 12. LANDSCAPE AND GARDENS

A. Unit Owners are encouraged to xeriscape the common grounds around their Units with the advance written approval of the Board of Directors. Forms to submit for such approval can be obtained on the Owners Website and from the Managing Agent.

B. Xeriscaping of all the Property is the objective of the FMCCA and is strongly urged for all landscaping. Limited, short-term watering, however, may be necessary. Long-term irrigation should not be. Cooperative efforts to develop and maintain xeriscaping by Unit Owners are also encouraged.

RULE 13. CLUBHOUSE USE

A. Use of the Clubhouse or other General Common Elements for private purposes requires advance written approval of the Board or its designee. Approval may be limited or prevented by other use of the Clubhouse, or contractual obligations.

B. The laundry facility in the clubhouse is under separate lease, and is not open to the public, but may be used by Owners and guests on an "as available" basis.

RULE 14. BARBECUES AND OPEN FLAMES

A. Smoking is forbidden anywhere on the Property at all times, including inter alia, Limited Common Elements (LCE), such as the Clubhouse and all porches and balconies.

B. Barbecue grills, hibachis, heaters, and any other appliance using open flames or heating elements that produce open flames are always prohibited from placement in or on any Limited Common Elements or General Common Elements.

RULE 15. SWAMP COOLERS

Installation of swamp coolers (evaporative coolers) at Ft. Marcy are not permitted.

RULE 16. FIRE ALARMS

The installed hard-wired fire alarm system conforms to applicable government codes and regulations and Unit Owners or family member, guest, tenant, lessee, contractor, or employee of a Unit Owner are prohibited from tampering with, interfering with, disarming or otherwise compromising in any way the fire alarm system, even temporarily.

RULE 17. UNIT SAFETY:

The Unit Owner is fully responsible for maintaining safe conditions in the Unit and should regularly inspect, or cause to be inspected, the entire Unit and make any necessary repairs, in particular to kitchens, bathrooms, fireplaces and woodstoves.

The Association is not responsible for, nor does it conduct, such inspections. If, however, while performing other duties, it notices unsafe conditions, the Association will notify Unit Owners to correct the condition(s) as soon as possible.

RULE 18. ASBESTOS NOTICE

A. IT HAS BEEN DETERMINED THAT THE JOINT COMPOUND ON THE DRYWALL IN THE UNITS AND THE "POPCORN" CEILING COVERING IN THE UNITS CONTAIN ASBESTOS.

B. If any Unit Owner's renovations of a Unit will result in disturbing these materials, such materials must be removed by a licensed asbestos remediation company and before the start of remediation such company must deliver an insurance certificate to FMCCA's Managing Agent naming FMCCA as an additional insured under the remediation company's liability insurance and workman's compensation policies.

C. Failure to obtain advance written consent will result in action to remove the unapproved alteration and costs of repair and failure to follow governmentally dictated procedures in dealing with asbestos can subject an owner to severe governmental penalties. The Board has promulgated a form by which requests for alterations shall be made. This form can be obtained on the Owners Website and from the Managing Agent.

RULE 19. UNIT RENTALS

A. Unit Owners have the right to rent their Units, either short term or long term, for residential purposes in accordance with applicable law and zoning regulations. In exercising this right, Unit Owners and renters must also comply with the Declaration, Bylaws, and these Rules and Regulations.

B. Any Unit Owner engaged in Unit rental is required to inform the Association of the nature of the rental activity during the first sixty days of each calendar year, or before the first rental of each calendar year, whichever comes first. To comply with this Rule, a form will be available on the Website or from the Managing Agent, and must be completed by the Owner for each rented Unit. If the Unit Owner is using a manager or agent, the Unit Owner shall provide the Association with the name and phone number of the contact person for the manager or agent.

C. For long term rentals (i.e. rental lasting for more than 30 consecutive days), all lease agreements must be in writing and a copy filed with the Management Office prior to occupancy by the tenant. The Unit Owner is responsible for such leases fully complying with governmental law and regulations and also fully complying with the Declaration, Bylaws, and these Rules and Regulations. All long-term rental agreements must have, as attachments, a copy of the current FMCCA Declaration, Bylaws and Rules and Regulations signed by the lessee. For shorter term rentals, Unit Owners are responsible for ensuring that Lessees are made aware of the restrictions set forth in the FMCCA Declaration, Bylaws and Rules and Regulations

D. Except in extraordinary circumstances, as determined by the Board, the prohibition on use or occupation of a Condominium Unit [By Laws IV 2. (j)] shall not be enforced

while an owner is fully complying with and current on payments under a written agreement with the Board for eliminating all arrearages of that owner. Such agreements shall take into account any rental revenues generated by the Unit(s), and a percentage not less than 35% of such gross rental revenues shall be included in the agreed payments. The fines for violation of the Bylaws [Art. IV 2 (j)] or this rule are \$100 per month.

RULE 20. BOARD APPROVALS AND SANCTIONS FOR VIOLATIONS

A. The Board has the power under the terms of the Declaration and the Bylaws to impose sanctions for violations of the Declaration, the Bylaws, or these Rules and Regulations. Any approvals voted by the Board pursuant to these Rules and Regulations may be rescinded by a subsequent decision of the Board.

B. In case of a violation by a Unit Owner, or family member, guest, tenant, lessee, contractor, or employee of a Unit Owner, the Board may impose the following sanctions on the Unit Owner:

1. A fine in an amount to be determined by the Board. The Board can impose the fine daily or otherwise, and the fine can range from \$10 to \$500, depending on the nature of the violation. All fines shall be immediately collectible as any other assessment.
2. Suspension of the member's FMCCA voting rights.
3. Suspension of the member's right to use the Limited and General Common Elements.
4. Institution of legal proceedings to compel compliance and/or obtain damages for the violations, including recovery of all costs and fees incurred by this action.
5. Any other sanction provided for under applicable federal, state, or local laws and regulations.

RULE 21. SATELLITE ANTENNAS

A. Satellite antennas include those allowed by the FCC Rule for direct-to-home satellite antennas that are less than one meter (39.37") in diameter, [hereinafter, antennas] to supplement or substitute for FMCCA provided TV cable service. Antennas are permitted provided they comply with the FCC Rule [available on FMCCA website], all applicable local, state law, ordinances and codes, and all FMCCA governing documents.

1. Placement of antennas should be in as inconspicuous a location and as low a height as possible, consistent with adequate signal reception and must not hinder or encroach on the lawful rights of other owners. Antennas that are visible from other units or from sidewalk level will require adequate and appropriate shielding from view, as determined by the Board of Directors, consistent with adequate signal reception.
2. Installation in, on or over the General Common Elements (GCE) will be on the roof of the building of the unit(s) intended to be served by the antenna, unless decided otherwise by the Board. The Board shall determine, at its sole discretion, any placement and utilization of all satellite antennas on the GCE.
3. To the extent feasible, antennas placed on the GCE should serve multiple

units. When appropriate antennas on the GCE are already installed, the Board may restrict individual antennas on the GCE.

4. Installation on the GCE requires a signed application, available on the Owners' Website and from the Managing Agent, and supporting documents submitted to the Board for decision.
5. Unit Owners or Renters may install an antenna in a Unit or on its Limited Common Elements (LCE) provided that no part of the installation encroaches in, on, or over the GCE, Property, or the LCE of another owner. An antenna must be placed inside the unit, if adequate signal quality can be received from any safe place within the unit.
6. Unit Owners or Renters installing an antenna in a unit; or in, on or over the LCE; must submit a completed notification form [available on request and on the FMCCA website.] to the Board as soon as they know they will be doing such an installation. Board review will be limited to safety matters, and restrictions, which may be placed, will be for reasons of safety. Antennas shall not hinder usual or emergency entrances or exits from any unit, or normal movement to such entrances or exits.

B. Unit Owners or Renters must hold the association harmless and indemnify the association in the event of any injury at any time by any antenna or its accessories or appurtenances.

C. Unit Owners or Renters are responsible for all costs associated with an antenna, accessories and appurtenances. These costs include, but are not limited to:

1. Installation; maintenance (including snow removal); repair; removal, shielding from view.
2. Damage caused to any GCE and/or LCE by or in connection with the antenna.
3. Upon removal the GCE or LCE location shall be restored to its original condition.
4. Removal/ replacement required by management for maintenance or repair of property.
5. After 10 days written notice, management may affect removal at owner/renter's expense.
6. All work on antennas located on the GCE or LCE must be done by bonded professionals capable of performing the work and must comply with industry standards and local codes.

RULE 22. INSURANCE

A. Purpose and Authority. This Rule governs the purchase of insurance and the making of claims against insurance by the Board and Unit Owners.

B. Authority to Purchase.

1. Except as otherwise provided in these Rules and Regulations, the Declaration and the Bylaws, insurance policies relating to the Property shall be purchased by the Board. The Board shall not be liable for its inability to obtain any coverages, required herein, at a reasonable cost. The Board shall have full discretion to exercise its judgment in purchasing insurance, including amounts of coverage, deductible amounts, and other terms and conditions of insurance

policies.

2. Each such policy shall provide, to the extent such coverage is available, at a reasonable cost as determined by the Board that:
 - (a) The insurer waives any right to claim by way of subrogation against the Fort Marcy Compound Condominium Association (hereinafter, Association), the Board and the Unit Owners and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households, without written authorization of the Board.
 - (b) The policy shall not be canceled, invalidated or suspended due to the conduct (defect) of any Unit Owner, including his invitees, agents and employees acting within the scope of their authority for the Association or of an officer or employee of the Board, without a prior demand in writing that the Board cure the defect, and the defect shall not have been so cured within 30 days.
 - (c) The policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days written notice to the Board.
3. All policies of insurance shall be written by companies with stable financial ratings and licensed to do business in New Mexico.

C. Physical Damage and Liability Insurance.

The Board shall obtain and maintain property insurance on all Buildings and all Unit Owners' improvements insuring against all risks of direct physical loss commonly insured against. The insurance shall cover the entirety of all buildings and all Unit Owners' improvements per these Rules and Regulations, subject to the loss payment amount discussed hereafter. The policy shall cover the interests of the Association, the Board and all Unit Owners and their mortgagees, as their interests may appear, subject however, to the loss payment and adjustment provisions in favor of the Board contained herein. To the extent such coverage is available at a reasonable cost as determined by the Board, the insurance shall be in an amount to cover 100% of the full replacement cost of all buildings and all Unit Owners' improvements without deduction for depreciation. In the event coverage purchased by the Board is less than 100% of full replacement cost of buildings and Unit Owner's improvement, all owners must be advised to individually insure their pro rata share of the difference. The replacement cost shall be determined by the Board from Time to time, as needed, with the assistance of the insurance Company affording coverage.

1. The loss payment (deductible) amount shall be \$15,000.00 effective January 1, 2012. The board shall notify the unit owners of the loss payment amount, if there is any change, the board shall notify the unit owners of the new loss payment amount. Each unit owner shall be responsible to pay the loss payment amount under the property damage insurance coverage as well as the cost of his pro rata share of any damage in excess of the coverage if it is insufficient.
2. Unit Owners insurance. Each Unit Owner shall, at the Unit Owner's Expense, obtain insurance coverage for his own benefit covering his personal property,

his personal liability and insurance covering the loss payment amount for physical damage. No Unit Owner shall acquire or maintain insurance that would decrease or come into contribution with the coverage maintained by the Board.

3. It shall be the responsibility of the unit owner to notify the board and the insurance company providing the physical damage coverage to the association of the value of any improvements made by the unit owner or his predecessor to the unit.
4. Any renovations to a unit must be performed by a licensed contractor who has provided the Unit Owner and the Association with certificates of insurance for both liability and workman's compensation insurance naming the Unit Owner and the Association as additional insureds; such insurance shall carry minimum liability of \$1,000,000.00. It is the responsibility of a Unit Owner to maintain or cause to be maintained liability insurance and workman's compensation insurance for any employee of the Unit Owner.
5. To the extent available at a reasonable cost as determined by The Board, the policy of the Association covering physical damage shall also provide:
 - (a) to allow the Board to elect to either rebuild or receive a cash settlement for a total loss;
 - (b) the following endorsement (or equivalent): (i) "contingent liability" from operation of building laws or codes;" (ii) "condominium replacement costs;" and (iii) replacement cost coverage up to the amount of total insurance purchased and elimination of co-insurance clause;
 - (c) that the physical damage policy purchased by the Board shall be deemed primary coverage, and any individual Unit Owner's policies shall be deemed excess coverage unless a claim is due to the negligence of a Unit Owner in which instance the Unit Owner's policy may be primary, and in no event shall the insurance coverage obtained and maintained by the Board hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their mortgagees unless required by law;
 - (d) - Certificates of insurance and endorsements issued thereunder together with proof of payment of premiums, shall be delivered promptly upon request.
6. The Board shall maintain, to the extent such coverage is available at a reasonable cost as determined by the Board, comprehensive general liability (including libel, slander, false arrest, and invasion of privacy) and Directors and Officers coverage which shall include coverage for property managers and other agents acting on behalf of the Board, and property damage insurance in an amount of at least \$1,000,000,00 as the Board may in its discretion determine, insuring each member or entity covered and each Unit Owner against liability to the public or to the Unit Owners (and their invitees, agents and employees) arising out of or incident to the ownership and/or use of the property.
7. The insurance shall be issued with occurrence coverage on a

comprehensive liability basis.

8. The Board shall review the limits of liability as needed, but in no event shall such insurance be less than \$1,000,000.00 covering all claims for bodily injury or property damage arising out of one occurrence. A reasonable amount of "umbrella insurance in excess of the primary limits may also be obtained in the Board's discretion.

D. Other Insurance. The Board shall maintain:

1. Workman's Compensation Insurance if and to the extent necessary to meet the requirements of law;
2. Other insurance as the Board in its discretion shall determine, including, but not limited to, flood and earthquake insurance;
3. Fidelity bonds for the treasurer and such other officers and agents as the Board shall determine.

E. Board as Agent. The Board shall have the authority to serve as the agent for each Unit Owner, each mortgagee, other named insureds and their beneficiaries, and any other holder of a lien or other interest in the Condominium or the Property, to adjust and settle all claims arising under insurance policies purchased by the Board, and insurance purchased by the Unit Owners to cover the loss payment amount on the physical damage insurance purchased by the Board, and to execute and deliver releases upon the payment of claims

F. Obligations of Unit Owners. Whenever these Rules and Regulations require a Unit Owner to carry any insurance or to notify the Association and the insurance company providing physical damage coverage to the Association and the Unit Owner fails to do so, the Unit Owner shall be liable for any claims that would have otherwise been covered as well as any other liability which the Unit Owner would otherwise have.

G. Obligation to Notify. Each Unit Owner will notify the Association or its managing agent of every insurance claim due to an incident on the Property whether or not the claim falls under the Association's insurance.