

Rule & Regulations

3.040.0 - Waste Container Storage

I. Introduction

The following Rule has been adopted by the Fairwood Greens Homeowners' Association Board, pursuant to the authority granted to the Association in RCW Title 64.38, the Declaration of Covenants of the Association, and all other statutes and laws applicable. These Rules supersede any previously adopted Rules on the same topic. They are intended to supplement the CC&R and other governing documents of the Association, not supplant or amend them, and in the event of an inconsistency or conflict between these Rules and the governing documents of the Association, the governing documents provisions will supersede and apply.

Inconsiderate placement and storage of waste and recycling containers (hereafter "containers"), resulting in their being visible from the street and to neighbors, adversely affects marketability and value of our homes and the quality of life of other owners in the community. It is important to maintain the Association community's visual appeal.

The intent and goal of this Rule is to govern the storage and placement of containers to minimize or eliminate their visibility from the street, alleyways, and from neighbors' homes and yards as much as reasonably possible. The Board recognizes that the physical nature of the residential structures, their yards and driveways, and of the streets, alleys and other common spaces, may make it difficult to adopt a general rule that easily fits every situation. Accordingly, in order to assure the best chance of successfully using this Rule and protecting the community's interests in controlling storage and placement of containers, it is necessary for the Board to have discretion to make decisions on a case-by-case basis as circumstances call for it.

Homeowner is responsible for all that occurs on their property, whether by tenant, guest, or other occupants. This document is sole authority for fines and the timing thereof.

II. Rule

General Rule: Except on collection day, owners shall store their containers within their backyards, side yards, garages or other private areas, in a manner so they are not visible from the street or to their neighbors. Containers shall be maintained and located in a manner and place so as to minimize odor to habitable areas and their neighbors. Owners shall reasonably screen their containers, as necessary, when storage is outside of their garage, subject to their submitting an ACC before installation, all pursuant to and in compliance with requirements set forth herein or in other governing documents. Notwithstanding anything to the contrary in this Rule, in order to effectively and properly govern and control storage and placement of containers within the infrastructure of our Association community, the Board has the discretion to make, implement and enforce decisions regarding the storage, placement and screening of containers on a case-by-case, owner-by-owner, and lot-by-lot basis, especially when (but not limited to) a particular owner's lot or circumstances does not easily fit within the provisions of this Rule; provided, however, that the Board will diligently endeavor to make decisions regarding application of this Rule as consistently among owners as reasonably possible.

- A. **On Collection Day:** Containers may be placed outside of their normal, required private storage area for collection for 24 hours, and must be removed and moved back to their place of storage by end of the next day. Containers shall not be placed for collection in any location which blocks or otherwise impairs other owners parking their vehicles in or accessing their driveway areas, or which blocks or interferes with the use of sidewalks, streets, alleys or other common spaces or elements of the Association community.
- B. **Non-Collection Days:** On all other days than collection day and the 24-hour grace period mentioned above, the following standards or requirements apply:

1. Containers may be stored:
 - within garages.
 - within fenced rear or side yards, subject, however to the requirement that they be reasonably screened from view subject to Architectural Control Committee (ACC) prior written approval, and subject to subsection (b) immediately below regarding corner lots.
2. Containers may not be stored:
 - in the front area of a home which abuts or faces a street.
 - for homes that are on a corner lot where there are streets on two sides of the lot: in a side yard or area which faces or abuts a street.

C. **On All Days:** Garbage and debris containers must have lids tightly attached or, if containers are those provided by the collection company with attached swivel lids those lids must be kept closed. The contents of containers, including without limitation recycle bins, must be secured in a manner that will prevent release or escape of the contents due to wind or other forces of nature.

III. Repetitive Offender

When acts or omissions of an owner which violate governing documents requirements or restrictions including those within this Rule or Policy repeatedly and continually occur over periods of time despite past notice or letters from the Association informing homeowner that such actions or omissions are violations, such a homeowner is defined as a "repetitive" or "chronic offender."

The Association Board considers it reasonably necessary to address the repetitive/chronic offender situation because such homeowner behavior may result in Association exerting more time, monies (including attorney fees), materials, monitoring, and corrective action effort than with homeowners who incur single, isolated, or rare offense. Further, the repetitive/chronic offender has a much greater adverse impact on the attractiveness and value and marketability of homes in the community, and on the quality of life of other owners. Accordingly, the Association Board has adopted this Article and those in other Articles in this Rule or Policy related to this topic in the hopes of deterring owners from becoming or continuing to be identified as repetitive/chronic offenders and to help recover the costs of the excessive time, effort, and monies expended by the Association in dealing with such owners.

Due to the increased problems for the Association and the community caused by repetitive/chronic offenders, and because such homeowners continue to violate the same or similar governing document issues time after time, it is reasonable to impose enhanced fines or penalties on them. If the Association Board or any Committee designated by it to monitor and address this topic determines that a homeowner is a repetitive/chronic offender regarding one or more issues or violations of the governing documents, the Association Board will issue a notice to homeowner at his or her last known address that homeowner is considered a repetitive/chronic offender, and to cease and desist the violation(s) then at issue. At that point and thereafter, if such homeowner does not stop or correct the violation(s) involved, enhanced fines may be imposed pursuant to those listed in the schedule below.

The following standards of conduct/violations will assist the Association Board in determining whether a homeowner should be classified as a repetitive/chronic offender but are not the sole factors that the Association Board may consider when deciding whether a homeowner is a repetitive/chronic offender.

Three (3) waste container storage violations within one (1) year

The above listing is not intended to limit the Association Board in considering other patterns or topics as being within the category of repetitive/chronic offender. The Association Board retains the discretion to look at other categories or topics and evaluate a homeowner's pattern of conduct in addressing such topic and determine whether the homeowner is a repetitive/chronic offender and therefore subject to this Rule or Policy and the enhanced fines set forth below.

IV. Infractions

Once a violation has been reported and confirmed, the violating homeowner notified in writing, and, if not corrected in a timely manner, fines shall be assessed.

At the Association Board's discretion, legal action may be taken against the violating homeowner at any point once a violation has been confirmed. Additional fines will continue to be assessed while the legal action is in process if the homeowner remains in violation of the declaration. All attorney fees and other costs associated with enforcement of this Rule may be assigned to or assessed upon the violating homeowner and shall be an automatic lien upon the homeowner's lot and collectible in the same fashion as if an assessment under the provisions in the Declaration of the Association, including the recording of a formal lien and foreclosure of it to protect the interests of the Association in collecting of all sums owed to it. Procedure to appeal the Association Board's decision can be found under Rules & Regulation for Appeal Process.

V. Fines

1. First notice: warning letter only (homeowner rectifies violation immediately)
2. Second notice: final warning letter stating date fine will commence if not rectified
3. Third notice: \$10/daily until rectified
4. Repetitive Offense, three (3) violations within (1) year: \$50/daily until rectified

VI. Collection of Fines

The Association will bill the violating homeowner the applicable fines at such time and for such periods as the Association considers reasonable. All fines imposed by the Association upon a homeowner which remain unpaid for 60 days shall automatically constitute a lien on the lot and all its improvements and may be handled and foreclosed upon in the same fashion as if it were a lien for unpaid assessments under the Association's governing documents and the laws of the State of Washington. The Association may file a formal lien with King County to further protect its interests regarding the unpaid fine(s). The amount of the lien shall include interest, and all costs and expenses, including attorney fees, incurred by the Association in the imposition and collection of such unpaid fine(s).

VII. Rule Enforceability

If any portion of this rule is determined to be legally unenforceable, it shall not negate the enforceability of the remaining portions of the rule.

END OF SECTION

Originally dated and adopted by the Board of Trustees the 23rd day of January 2018.
Revised: 8/23/22