

Rules & Regulations

3.170.0 - Anti-Harassment (Homeowner-to-Homeowner)

I. Introduction

The intent of this R&R is to promote reasonable conduct and communications between owners, and discourage offensive and unreasonable behavior, including without limitation discriminatory harassment and/or abuse based upon race, color, creed, religion, sex, sexual orientation, familial status, national origin, citizenship, or the presence of any sensory, mental, or physical disability, or any other grounds protected by the Washington laws against discrimination, the federal Fair Housing Act (FHA), and the Department of Housing and Urban Development (HUD), and any other applicable regulations and executive orders. In fact, HUD and FHA laws and regulations make community associations like ours liable and responsible for taking prompt action to correct owner-to-owner abuse and/or harassment. If our Association fails to act in appropriate circumstances, we are at risk of liability and a lawsuit.

Definition of Harassment and/or Abuse: In this Rule “harassment” means words, gestures, or actions which tend to seriously annoy, alarm, or abuse another person, “annoy” means to seriously disturb, irritate, or cause discomfort, and “abuse” consists of insulting, hurtful, offensive, and/or discriminatory words or acts (collectively hereafter “harassment” and/or “abuse” or derivatives of these words).

Accordingly, if a homeowner or other person residing in our community threatens to abuse, stalks, intimidates, or personally verbally attacks another member or resident in the community, including without limitation engaging in a pattern of angry confrontations, use of profanity or insulting language, or seriously harassing another member or resident in the community and the conduct is such as would reasonably scare, seriously annoy, or harass, this conduct shall also be considered “harassment” and “abuse” as those words are used in this rule.

This Rule addresses both discriminatory conduct against protected class members and harassment and/or abuse conduct against general members and residents of the Association.

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

- A. Harassment Conduct:** Members and other persons residing in the Association community shall not engage in any abusive or harassing behavior, either verbal or physical, or any form of intimidation or aggression directed at other members, residents, guests, occupants, invitees, or directed at Board Trustees, Committee members, management, or Association agents, its employees, or vendors.
- B. Claim or Complaint of Harassment:** A written Claim of Harassment (form attached to this rule and additionally found at association’s website www.fairwoodgreens.org) can be filed with the Association by the complainant owner, a Board or Committee member, any witness to in-person abuse, or a witness who personally heard the alleged abuse.
- C. Supporting Documentation:** A claim must be accompanied by all information and any documents that support the claim, including without limitation, names and contact information of witnesses, copies of abusive letters, emails, texts, tapes of abusive phone calls, police reports, or video(s) of abusive conduct captured on security cameras or other recording devices (such as cell phones). Supporting information, documents, and/or witnesses are important. The Association will investigate every Claim but without such independent supporting information it is very difficult to for the Association to take action.

- D. Investigation of Claim:** Upon receiving a Claim of Harassment, the Board or a Committee appointed by the Board on this subject will investigate and attempt to verify the Claim. Investigation may include without limitation, reviewing information and documents submitted in support of the Claim, interviewing witnesses, and exploring any other means that may possibly verify the Claim.
- E. If Investigation Verifies Harassment:** If it is determined that an owner is being subjected to unwelcome harassment or abuse so severe or pervasive it interferes with or deprives the owner the right to use and enjoy their home or the common areas or public streets, the Association will take all reasonable steps legally available to it, to intervene and prevent further harassment.

III. Fines

If the harassment conduct is verified, the following steps will be implemented.

- A.** A letter will be sent to the abusive owner by the Board or the Association's attorney, explaining and describing the harassing behavior in detail, and demanding the abusive conduct immediately cease and desist.
- B.** If the behavior continues, fines will be imposed, subject to the procedures set forth below.
1. First confirmed occurrence: warning letter; no fine
 2. Second confirmed occurrence: \$100/occurrence
 3. Third and subsequent confirmed occurrence: \$200/occurrence
 4. The Association may, depending on the nature and severity of the abusive conduct:
 - a. Offer to mediate the dispute. However, mediation will not be considered as appropriate by the Board if the abuse was or is severe, particularly egregious, and/or the abusive owner's conduct presents a threat of physical or mental harm to the complainant owner, or the abusive owner's attitude is defiant to the Association's attempt at preventing further abusive conduct.
 - b. Seek a civil restraining order in Court against the abusive owner.
 - c. File or assist the complainant owner with filing a criminal complaint with the appropriate law enforcement agency.

IV. Request for Hearing on Being Fined/Opportunity to be Heard

- A. Introduction.** An owner found by the Board to be in violation of this Rule and who has been notified of being fined has the right to request a hearing to offer a defense to, or to explain extenuating circumstances regarding, the violation(s) and imposition of fines.
- B. Deadline for Homeowner Requesting a Hearing/Waiver of Hearing Right if Untimely Request:**
1. The letter or communication by the Association to owner for compliance and a notice that fines will be imposed upon further abusive conduct shall also specify the following:
 - a. owner has the right to request a hearing solely for the purpose of disputing the validity or basis of being fined;
 - b. the owner must notify the Board in writing that he/she requests a hearing within fourteen (14) calendar days of the date of the Association's letter warning of imposition of fines;
 - c. if owner does not timely give written notice to the Board that he/she is requesting a hearing, owner waives the right to a hearing.
 2. The deadline for requesting a hearing and the waiver of the right to hearing for failure to timely meet the deadline is intended to bring a definitive closure to the hearing request period, so that an owner cannot obstruct or delay implementation or collection of the imposed fines by unreasonably requesting a hearing long after imposition, collection or enforcement efforts begin.

C. Request for Hearing/Required Information. The homeowner must complete a written Request for Hearing (form found at association's website www.fairwoodgreens.org) which shall be mailed or delivered to the Association. The appeal request must contain the following:

1. Homeowner's name and address;
2. Homeowner's reasons, basis, and defense for the hearing;
3. A copy of all supporting documentation;
4. The name of any attending witnesses or other collaborating guests;
5. The homeowner's signature and date of the Request for Hearing.

D. Hearing Procedures:

1. The homeowner will be sent confirmation by the Association of its receipt of the Request for Hearing.
2. The Board will appoint and assemble a minimum of three (3) (or more at the Board's discretion) current members of the Association and/or the Association's Board of Directors or appoint and name a representative designated by the Board to act as a Review Board (the "Review Board") within seven (7) calendar days following receipt of a written Request for Hearing complying with the information requirements set forth above.
3. No later than ten (10) calendar days following the formation of the Review Board, the Review Board shall mail or deliver notice to the appellant owner of a hearing date, which notice will provide the date, time, and location of the hearing, which is to be determined by the Review Board.
4. The Review Board will permit the appealing homeowner up to thirty minutes to explain the circumstances of the matter and provide grounds as to why the fine should be waived, reduced, or cancelled.
5. At the conclusion of the presentation, the hearing will adjourn, and the Review Board will review the circumstances of the Request for Hearing as presented.
6. Within seven (7) calendar days of the hearing, the Review Board will mail or deliver written notice to the homeowner of the Review Board's decision.
7. If the Review Board finds in favor of the homeowner, it will advise the homeowner as to whether the violation and/or the fines originally imposed are reduced, modified, or waived. Any adjustment(s) shall reflect on the homeowner's account the following month.
8. If the Review Board determines that the owner's explanation or defense presented at the hearing was inadequate or otherwise failed to justify a reduction, modification, or waiver of the violation and/or fines, the owner will be so notified, in which case the fines imposed will continue as owed to the Association until paid in full regardless of whether the violation has since been removed or corrected. In any event, if the Review Board finds against the owner, the fines will continue to be imposed against each further incident of abuse or harassment until full and adequate compliance occurs by owner. [See the Association's "Schedule of Fines" revised August 23, 2022, which is posted on the Association's website.]

E. Documenting All Measures Taken by the Association: The Board will document all intervention measures to demonstrate the Association's good faith efforts to deal with the issue of an abusive owner.

F. Enforcement: In the event the Board finds an owner has violated this Rule, the Board may enforce by, including without limitation:

1. Applying and enforcing the Offending Conduct Rule and/or the Annoyance/Offending Conduct Rule, including the imposition of Fines pursuant to those Rules, and/or enforcing any other Rules or laws available to address the violation(s) and prevent future harassment. The Association's Rules mentioned are incorporated by reference in this section for the purpose of levying Fines. Each violation occurring after a determination that harassment or abuse has occurred shall be subject to the imposition of fines based upon the Association's Rules;
2. Filing of a lawsuit against the offender to seek an injunction to prevent further harassment;
3. Assisting the victim with obtaining a restraining order against the offender;
4. Assessing the Association's attorneys' fees and costs against the offending owner or person;

5. Taking whatever other actions that are reasonably available to the Association to prevent further harassment, and to prevent retaliation by the offender. Retaliation by the offender is also considered harassment or abuse under this Rule.

V. 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 24th day of January 2023.