



HARD SURFACE FLOORING RULES

Declaration Provision:

Article 25.3 of the Kirkland Central Condominium Declaration provides that an owner “. . . **may not change** the flooring from carpeting to hard surface flooring in a portion of the Unit that is over another Unit **without the prior written approval of the Board and the Owner of the Unit below**, which approval may not be unreasonably withheld.” The Article further provides that the Board “. . . may require a report from an acoustical engineer, the use of an acoustical mat or insulation under the flooring of the unit and/or maintenance of carpeting over specified areas of the Unit.”

In addition to those rules set forth in the Construction Rules promulgated by the Board, the following rules apply specifically to the installation, repair, removal, alteration, or any other change to hard surface flooring in a Unit.

1. Prior to any changes and/or repairs in the flooring of one’s unit, the Owner is required to contact the Board to determine if the Declaration Provision above is affected.
2. If there is a change from carpeting to Hard Surface Flooring and/or repair of any Hard Surface Flooring per the above Declaration Provision, the Owner shall first obtain the written approval of the Owner of the Unit below.
3. The Owner shall submit to the Board a complete application for approval of a proposed Hard Surface Flooring repair or new installation at least thirty (30) days before the anticipated start of work.
 - a. The applicant must give the Owners of the Unit(s) directly beneath the areas where flooring will be installed written notice of the proposed installation. The notice must state the nature and scope of the proposed installation. The notice may further state that, while the Owner of a Unit below applicant’s Unit has a right to withhold approval of the flooring installation, that approval may not be unreasonably withheld and that an Owner’s refusal to cooperate in conducting any acoustical testing described in this Policy may constitute an “unreasonably withholding” approval.
 - b. Each application shall include two (2) copies of the following:
 - 1) A completed application form.
 - 2) A flooring plan showing the location(s) within the Unit where flooring will be installed.
 - 3) A sample of the flooring material(s) and sound attenuation underlayment materials proposed to be used.

- 4) Product acoustical data, if available, that demonstrates that the completed installation will satisfy the FIIC 55 or better performance standard established by Board Policy (where footfall noise is barely audible).
- 5) The written consent of the Owner of the Unit directly below the applicant's Unit, consenting to the proposed installation, as required by Section 25.3 of the Declaration. (If such written consent is not submitted with the Application, the applicant shall submit a written explanation for the absence of that consent and shall state a date by which applicant anticipates applicant's submission of that consent.)
- 6) Applicant shall deposit with the Board an amount designated as a Performance Deposit to the Association in an amount to be determined by the Board, which at a minimum shall cover the estimated cost of acoustical testing described herein, and to remove any non-compliant installation and install carpets and pads. The Board shall have the right to use the Performance Deposit for such purposes.
- 7) Relevant information on the contractor that will install the material, including copies of the contractor's current license, bond and insurance certificate naming the Kirkland Central Owners Association as additionally insured on the contractor's insurance policy.
- 8) Such other information as the Board, in its discretion, may require be submitted in connection with a specific application, so that the Board is more fully informed about the nature of the proposal and about the possible impact of the completed installation on the residents of the Unit below applicant's Unit.

4. Upon receiving a complete application, the Board will review the application and apply this Policy to arrive at its decision to approve, approve with conditions, or deny the application. The Board may visit the Unit below applicant's Unit and may also visit the applicant's Unit to confirm what flooring materials were present in applicant's Unit before installation of new flooring commenced and to better understand how the proposed flooring installation may affect residents in the Unit below applicant's Unit. The Board will mail or deliver a written decision on the application to the applicant within thirty (30) days of the Board's receipt of a complete application from the applicant.

5. Applicant shall complete installation in strict compliance with all terms and conditions, if any, contained in the Board's written approval decision.

6. The applicant who had the flooring installed bears the burden of establishing to the Board's satisfaction that the completed installation meets or exceeds the FIIC 55 or higher performance standard. (The Board may, in its sole discretion, allow a variance of not more than 3dB in test results, in order to account for any testing anomalies.)

7. Some conditions that the Board may impose in its sole and exclusive discretion, include but are not limited to:

a. If a product assembly has not previously been tested in accordance with Applicable Testing Procedures, the Board may require that a Qualified Engineer temporarily install a sample of the product proposed to be utilized by the Owner within the Unit, conduct the testing under the Procedures, and prepare a report documenting that the product performs in accordance with the requirements of this Policy before installation.

b. The Board may condition its approval on the applicant completing this acoustical testing promptly upon completing installation of the flooring specified in the Board's written approval. The applicant shall demonstrate, through submission of the results of such testing to the Board, that the installed flooring performs in compliance with the Objective Standard established by this Policy. The Board may conduct a post installation inspection of the Unit to confirm that the actual installation conformed to the terms and conditions of its written approval.

8. The Board shall have the authority to require the Owner to conduct the required post-installation testing at the Owner's expense to insure compliance with the sound levels described herein. If the test fails, the Owner is responsible to correct the installation deficiencies and retest at their sole and exclusive expense.

9. The Board has the authority to remove any non-compliant installation and install carpets and pads using resources from the Performance Deposit. If the Performance Deposit is inadequate to remove the non-compliant installation and install carpets and pads, the Association has the authority to assess the owner for any additional costs and legal fees to accomplish this objective. Any Assessment shall be a special assessment and shall be collected in the same manner as special assessments in the governing documents.

10. Owners whose units adjacent to the modified unit are required to permit their units to be used to perform the required noise compliance testing.

11. Pre-installation and post-installation inspections are required for all flooring installations to assure that only Board-approved changes were made.

12. The Board can act to assure compliance after the installation time period is exceeded. The owner can request an extension, if good faith efforts to complete a compliant floor installation are in evidence.

13. Any person who installs Hard Surface Flooring in place of carpeting and/or repairs, modifies, or alters any Hard Surface Flooring, without obtaining Board approval through the process set forth in these Rules, the Construction Rules or the Board Policy, or who fails to perform approved work in strict compliance with the terms and conditions of the Board's written approval plan, shall be subject to all remedial measures afforded to the Board and other Owners by law and by the Association's governing documents. The Association is authorized to file suit against any owner who changes flooring without following this procedure. The value of the suit will cover all costs, including legal costs, required to remove any non-compliant installation and install carpets and pads.

14. Remedial measures available for use by the Board in restoring compliance with flooring restrictions contained in the Declaration include, without limitation, (a) imposition of fines; (b) removal and replacement of the flooring by direct Board action, at the Owner's cost; (c) suing the Unit Owner for damages and/or for a court order compelling the Unit Owner to promptly bring the flooring into compliance with the Rules, the Construction Rules, the Board Policy, the terms and conditions of the Board's written approval plan; and/or (d) promptly remove the flooring and replace it with alternative flooring materials. All expenses associated with enforcing this Policy against a Unit Owner shall be born by the Unit Owner, as provided for by the Declaration.