

## SECTION V – PROPERTY MAINTENANCE AND ENFORCEMENT PROCEDURES

### M. PROPERTY MAINTENANCE

Properly maintained lots are important for safety and to maintain the visual character and economic value of the property, surrounding properties, the neighborhood, and Burke Centre as a community. Each owner and resident is required to maintain their property consistent with the requirements published in these Burke Centre Conservancy Architectural Standards.

#### M.1. **PROPERTY OWNERSHIP**

Property ownership within Burke Centre includes the responsibility for maintenance of all structures and grounds that are part of the property, and is recognized in Article VI, Section (2a) of the Covenants, *each owner shall keep all lots owned by him, and all improvements thereon, in good order and repair, free of debris, all in a manner and with such frequency as is consistent with good property management.*

#### M.2. **PROPERTY MAINTENANCE**

Property maintenance includes preserving the appearance of the property, and repairing or replacing materials that have deteriorated. Property maintenance includes, but is not limited to, grounds maintenance, disposal of trash and debris, and proper maintenance of each structure on the lot, driveway, walkway, and mailbox to ensure aesthetic appeal. A few examples considered violations of the covenants, are:

- 1) Any surface with peeling, fading or chalking paint or stain
- 2) Siding or trim, inclusive of shutters, fascia and flashing, which is severely faded, mismatched, broken, rotted, dirty, dented, damaged or missing
- 3) Mailboxes that are dented, need painting, having missing parts, damaged components and/or altered supporting posts
- 4) Gutters or downspouts that are bent, dented, sagging, missing or dirty
- 5) Driveways, walkways, decks or porches that are broken or deteriorated
- 6) Incomplete or unfinished exterior alterations
- 7) Inappropriate storage of building materials, lawn maintenance equipment, toys or refuse.
- 8) Fences that are broken, rotted, leaning or missing
- 9) Lawns not neatly mowed and maintained and/or without trimming around man-made surfaces, structures, planted areas and trees
- 10) Areas void of ground cover or overgrown with weeds
- 11) Indiscriminate use of pesticides, fertilizers or herbicides
- 12) Conditions, which can cause or are causing erosion or flooding
- 13) Dumping of organic debris (leaves, grass clippings, branches) in a non-approved compost area, on the property, on adjacent property, or on open space
- 14) Shrubs and trees obstructing walks, paths, and streets
- 15) Litter

#### M.3. **STORAGE AND USE OF TRASH AND RECYCLING CONTAINERS**

**Single Family Home and Duplex:** Trash and recyclable materials shall be stored in appropriate trash and recycling containers and not visible from street view. Trash and recycling containers may be stored at the rear or side of the property (if stored on the side, containers must be properly screened so as to not be visible from street view), on all days other than scheduled pick up days.

**Townhome:** Trash and recyclable materials shall be stored in appropriate trash and recycling containers and not visible from street view. Trash and recycling containers shall be stored in accordance with one of the following on all days other than scheduled pick-up days:

- At the rear of the property
- At the side of the property (containers shall be properly screened so as to not be visible from street or parking lot view)
- Within properly constructed and approved (by the Burke Centre Conservancy), centralized enclosures designed for the storage of trash and recycling containers.

**Quadruplex:** Trash and recyclable materials shall be stored in appropriate trash and recycling containers, on all days other than pick-up days, trash and recycling containers shall be stored out of neighbors' view, or within fenced enclosures.

For health and aesthetic reasons, trash and recyclables shall be placed in closed, rodent/animal proof containers by the curb in front of the homeowner's property no earlier than the evening prior to the scheduled pick-up day. Plastic bags or cardboard boxes are not adequate trash or recyclable containers. Lawn/yard debris must be in closed clear plastic or paper bags and brush debris appropriately bundled, and placed at curb on appropriate pickup days. Residents are responsible for making arrangements for special pickups of large appliances or furniture.

**M.4. MAINTENANCE PLANNING**

Maintenance planning is the responsibility of each property owner. There are several maintenance requirements which include, but are not limited to, roof replacement, siding replacement, foundation, driveway, and walkway repairs, that are typically very costly. Owners should anticipate these repairs and develop a financial plan to make repairs when they become necessary. Cost of maintenance is not a mitigating factor in relieving an owner of maintenance responsibilities.

**M.5. STORAGE**

Proper storage requires the owner to store all items in a neat and orderly fashion to maintain the aesthetic appeal of the property. Items may include, but are not limited to, toys, ladders, gardening/landscaping equipment, or recreational equipment. Acceptable exterior storage includes approved sheds and screened under deck areas. Garden hoses may be stored outside on a seasonal basis if they are located on a fixed-mount storage container (hose reel) fastened to the dwelling or other structure (deck, shed). Hoses located on a portable/mobile cart shall be stored within three (3) feet of the structure.

Automobiles shall not be stored in sheds or screened under deck areas nor parked on non-paved property. Parking or storage of inoperable automobiles on property lots is prohibited.

Recreational vehicles, watercraft, campers and trailers may only be stored on the owner's property within a garage or screened enclosure approved by the ARB. Temporary parking of recreational vehicles (RV), campers, trailers and related equipment on the homeowner's property is permitted for a maximum of 48 hours for the purpose of loading, unloading or preparing for a trip/use. The Burke Center Conservancy Executive Director may authorize temporary parking exceeding 48 hours pursuant to a written request submitted to the Conservancy Administrative Office. Written requests must include the inclusive dates for the temporary parking and the specific justification for the request, and must be received by the Conservancy Administrative Office no later than four working days prior to the start date of the requested parking period. Fairfax County Community Parking District restrictions apply.

Owners who have guests with an RV or camper that will be located on the owner's property shall obtain a temporary vehicle parking permit from the Conservancy ARB staff.

**M.6. TREE AND LANDSCAPE MANAGEMENT**

The intent of the Conservancy's motto, "*Nature and Community in Harmony*," is to create a complementary relationship between development and nature's beauty. Trees and the common areas are significant contributors to that relationship. Under an integrated land management plan, the Board of Trustees and the ARB considers an owner's property in proportion to the rest of the community, rather than solely focus on isolated individual components of the property. This embodies the protection and preservation of trees, while considering their impact on the entire landscape of the property and surrounding community.

Homeowners are encouraged to regularly prune trees on their property to help control and mitigate any undesired impacts of natural tree growth. Pruning should be accomplished in a manner that will not jeopardize the health of the tree, Pruning shall not be excessive resulting in permanent disfigurement or death of the tree – generally no more than 25% of a tree should be removed during a single pruning. Trees with branches that extend across decks and roofs, causing a natural flow of leaves and/or flowerings to fall into the yard and/or gutter system are not considered disruptive or a

nuisance.

BCC's Tree Policy (Administrative and Policy Resolution No. 6-C8) sets forth the community's tree maintenance policies and establishes the respective responsibilities of the homeowner/resident, Cluster committee, the Conservancy, the Open Space Committee, and the ARB with regard to tree maintenance and tree removal within Burke Centre.

**With regard to Private Property and Residential Lots, the policy provisions include the following:**

*"The Conservancy recognizes that trees constitute a valuable aspect of our natural resources and therefore promotes a policy of tree conservation whenever possible. To that end, the removal of healthy trees from the properties is subject to review by the Burke Centre Conservancy Open Space Committee and/or the Architectural Review Board.*

*Owners or their authorized agents may prune any tree branches that may damage their structure.*

*The Conservancy will not remove limbs from trees located on property owned or leased by the Conservancy which extend over Private Property.*

*Owners or their authorized agents have the right to prune or remove limbs that extend over their property lines at their cost. Pruning or removal must be accomplished in a manner which will not jeopardize the health of the tree. If excessive pruning or removal is done, resulting in a permanent disfigurement or death of a tree, the owner may be held liable for replacement of the tree.*

*Owners or their responsible agents may not trim beyond their property line unless granted written permission by the property owner or the Conservancy, whichever is applicable.*

*Owners may not remove trees outside their property lines.*

*Owners shall make the Conservancy aware of any tree or limb that is in danger of falling on private property.*

*Owners are responsible for the removal of trees and debris from their properties that have fallen from other properties due to an Act of God."*

## **N. ENFORCEMENT PROCEDURES**

Enforcement of the Architectural Standards ensures owners and residents that design and aesthetic quality will be maintained, thereby enhancing property values and the community's overall appearance and environment. Architectural Standards apply to all of Burke Centre, to include every lot and each Conservancy member. The Architectural Review Board (ARB) is charged with enforcing these standards. Condominiums within Burke Centre hold a unique status in this aspect. While the Architectural Standards apply to condominiums, these units are also subject to their own rules and architectural guidelines. In certain situations, the condominium rules may also be enforced by BCC.

**N.1.** The Covenants (Article III, Section IV, b2) requires the ARB to ensure compliance of all Burke Centre lots with the Conservancy's Architectural Standards.

**N.2.** The following enforcement procedures have been adopted by the Board of Trustees:

- 1) A site inspection is conducted by the Community Services-ARB representative to verify any alleged violation of Burke Centre Conservancy Architectural Standards.
- 2) Upon confirmation of a violation(s), the property owner is notified in writing of the maintenance violations. In some cases, a homeowner may also be notified via a hang tag placed on his/her door knob. This tag informs the owner of the specific violation. If the property is not owner occupied, a violation letter is sent to the owner and/or property Management Company with copies sent to the tenants.
- 3) A copy is also provided to the neighborhood cluster representative, if there is one.

- 4) Upon notification, the property owner has up to sixteen (16) calendar days, or such shorter period of time as the Executive Director shall deem appropriate in the circumstances, to correct the violation(s). The property owner may request an extension, due to extenuating circumstances, by contacting the CS-ARB staff.
- 5) At the expiration of the notification period described in 4), above, a follow-up property inspection is made by the CS-ARB representative to determine if the violation(s) still exist.
- 6) If corrective action has been taken, the case is closed.
- 7) If no corrective actions have been taken by the expiration of the notification period, upon notice to the owner and an approval by 2/3rds vote of the Board of Trustees, the Conservancy and/or its agents may enter the property and correct the violation(s). In that event, the Board of Trustees assesses a Restoration Assessment against the owner of the property to recover all costs of correction.
- 8) If no corrective action has been taken by the expiration of the notification period, and the Conservancy staff has not initiated corrective action consistent with number (7) above, the property owner is notified by certified mail/return receipt stating the violation(s) and a date to appear at a scheduled hearing before the ARB. The property owner is given fourteen (14) calendar days written notice of the scheduled hearing. The CS-ARB staff may grant an extension and reschedule the hearing based on the property owner's request and due to extenuating circumstances.
- 9) The ARB conducts a violation hearing to receive concerned resident input, and takes the following actions:
  - a. Dismisses the violation(s).
  - b. Holds the case in abeyance pending corrective action(s) to be completed by the property owner as specified by the ARB.
  - c. Refers the violation to the Board of Trustees with a recommendation to impose monetary charges of up to \$10 per day for up to 90 days or up to \$50 for each violation.
  - d. Refers the violation(s) to the Board of Trustees with a recommendation for legal action, which could result in a property lien by the Conservancy.
- 10) Within seven (7) days after the hearing, the property owner is notified in writing by certified mail/return receipt requested, of the ARB decision or action. If the violation is referred to the Board of Trustees, the property owner is provided fourteen (14) days of written notice by certified mail/return receipt requested, of the date of the scheduled hearing before the Board of Trustees.
- 11) The Board of Trustees conducts a hearing, receiving all offered input from the property owner, concerned resident(s) and/or cluster representatives, considers the ARB recommendation(s) and takes one of the following actions:
  - a. Dismisses the violation(s).
  - b. Holds the case in abeyance pending corrective action(s) to be completed by the property owner as specified by the Board of Trustees.
  - c. Imposes monetary charges of up to \$10 per day for up to ninety (90) days or up to \$50 per violation.
  - d. The case is forwarded to the Conservancy's attorney to begin legal action.
- 12) Within seven (7) days after the hearing, the ARB staff notifies the property owner in writing by certified mail, return receipt requested, of the results of the Board of Trustees hearing.
- 13) At any time during this procedure, a written request for inspection of appropriate corrective action will be accepted from the homeowner. Upon verification by the Community Services-ARB staff that all violations have been corrected, the case will be closed; provided, however, any incurred costs of correction by the Conservancy or its agents may nevertheless be assessed against the property owner.

**N.3.** All owners are expected to exercise their responsibility as members of a PRC. Owners who demonstrate a consistent and repetitive pattern of disregarding this responsibility are subject to having their Conservancy member privileges suspended or revoked, and may be subject to legal action. Examples of disregard include, but are not limited to, repeat offenders of the same or similar in nature, more than three violations of any type within a twelve-month period or a significant number of multiple concurrent violations. Additionally, owners who attempt to circumvent the intent and spirit of proper maintenance by submitting applications for modifications that are clearly prohibited, repetitively submitting an application that has no substantive difference from a previously disapproved application or owners who temporarily correct a violation to pass an inspection and then cause or allow the violation to recur in an attempt to delay corrective action or responsive action by the ARB, are also

considered to be abdicating their responsibility, and thus are subject to having their Conservancy member privileges suspended or revoked, and may be subject to legal action.

- N.4.** An exterior modification(s) that requires an approved ARB application and is started without one is considered a violation of the ARB Standards. As such, the ARB may recommend monetary charges as discussed in Section N.2 (11c) for failure to obtain an approved ARB application before making exterior changes. The violation may be corrected by the property owner's submission of a complete ARB application to the CS-ARB Coordinator. In its recommendation to the BOT, the ARB will consider the event's circumstances in each occurrence.

## **O. POAA**

- O.1.** The Virginia Property Owner's Association Act (POAA) requires all sellers to disclose the existence of a mandatory property owners' association, and the purchaser be provided with a disclosure packet covering the following:
- 1) The Community's Covenants, Restrictions, Rules and Regulations.
  - 2) Budget, Financial and Insurance Statements.
  - 3) Financial and Architectural Estoppel Certificates, architectural standards
  - 4) Community center use and rentals, pool and tennis rules, etc.
- O.2.** The contract seller shall be aware the sale of the property is dependent on the purchaser receiving and reviewing the disclosure documents. For any exterior modification not previously approved, the owner shall submit an ARB application and seek approval to restore the property to the pre-existing state prior to settlement or escrow funds to the purchaser to bring all violations into compliance within 60 days.
- O.3.** Article VI, Section 3 of the Covenants requires that an Estoppel Certificate be issued prior to settlement. The certificate provides information on the current status of any assessment payments or charges due upon the property and certifies whether there are any violations of the governing documents on the property.
- O.4.** The Contract Seller shall be aware of property inspections. In accordance with Article IX of the Burke Centre Bylaws, the Conservancy staff conducts property inspections to ensure compliance with Burke Centre Conservancy Architectural Standards, specifically, maintenance standards and all approved plans for exterior modifications. Inspections may occur as a follow up action to an approved or disapproved exterior modification application, pursuant to a general inspection schedule, or at the request of a Conservancy member, cluster representative, the CS-ARB representative, ARB and/or the Board of Trustees.
- O.5.** It is the responsibility of the contract seller to request an Estoppel Certificate from the Conservancy Office, at least 10 days prior to the settlement date. This action is separate from the notification requirements that are required by the Virginia Property Owner's Association Act.
- O.6.** The new owner is responsible for all maintenance violations that are reported after the legal transfer of property. The fact that a particular pre-existing violation was not noted on the POAA inspection result does not relieve an owner of the responsibility to correct the violation when it is subsequently reported.