

# WEXFORD CONSERVANCY

Policy Resolution No. 2009-62

## (Lawn and Yard Care)

**WHEREAS**, Article VI, Section 2(a) of the Declaration requires each owner to keep all lots in good order and repair, free of debris, all in a manner and with such frequency as is consistent with good property management;

**WHEREAS**, Article VI, Section 1(a) prohibits the existence or operation of any nuisance upon any property so as to jeopardize property values;

**WHEREAS**, Article VI, Section 1(d) grants the Board of Trustees the ability to adopt general rules, regarding, among other things, maintenance and removal of vegetation on the Properties;

**WHEREAS**, if an Owner fails to comply with rules and guidelines set forth by the Board of Trustees, Article VI, Section 2(b) of the Declaration empowers the Association to authorize parties to go onto the lot of the Owner for the purpose of correcting the violation;

**WHEREAS**, the Board of Trustees previously adopted Architectural Review and Guidelines;

**WHEREAS**, upon advice of legal counsel, the Board has decided to establish a more expeditious enforcement process for the maintenance requirements that relate to lawn and yard care because of their effect upon the appearance and marketability of the individual lots in the Association and in accordance with any relevant Prince William Code requirements.

**NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD ADOPTS THE FOLLOWING POLICY:**

1. This policy supersedes any previous enforcement procedures and maintenance requirements that relate to front and rear lawn and yard care.
2. Maintenance Standards
  - (a) Grass shall not exceed six (6) inches in height and be a minimum of two (2) inches in height on any lot and be mowed at regular intervals. Once a week during the growing season is recommended; however during times of heavy rains more frequent mowing may be necessary. Proper mowing includes edging and the removal of clippings.

- (b) Landscape beds should be kept free of weeds and debris.
- (c) Landscape beds should be mulched each spring. Fall mulch is highly encouraged, but not required.
- (d) Rear landscaping shall not be permitted to extend through the fence boards.
- (e) Lawns shall remain relatively free of weeds with full ground cover.

3. Definitions

- (a) "Weeds" are defined as uncultivated and undesired plants, such as but not limited to dandelions, crabgrass, noxious bushes, vines, (e.g., kudzu), poison ivy, poison oak or any other foreign growth, other than grass, trees, ornamental shrubbery, and flowers.
- (b) Debris shall be considered litter, trash, leaves, lawn clippings, storage, branches, lawn equipment etc.

4. Enforcement

(a) First time violations

- (1) Will be notified of the violation either by a "door hanger" or written notice of violation mailed by first class mail. The language in said notice shall comply with the Association's Resolution on Due Process Procedures (2009-01).
- (2) If the lot owner fails to take corrective action within 7 days of the written notice of violation, the Board shall handle the matter as a covenant/rule violation and shall assess appropriate violation charges if the lot owner does not request a hearing before the Board. If a hearing is requested, the Association shall abide by the procedures set forth in the Resolution on Due Process Procedures (2009-01).

5. Repeated Violations.

Because lawn/yard care maintenance violations are repeated by some residents on a regular basis, the Board is adopting the following procedures, at its discretion, to address those types of violations. These provisions specifically apply to, but are not limited to violations for lawn maintenance and trash can violations.

- (a) **Second Violation of the same type within 12 months.** If a lot owner commits a violation within twelve (12) months of the most recent hearing, hearing notice or warning for the same type of violation, then the Association may assess violation charges for the

second violation without issuance of an initial letter or notice of violation. The lot owner shall be advised by certified mail, return receipt requested within seven (7) days that violation charges have been assessed. When the lot owner is advised that he or she has been assessed violation charges, they shall have the right to request a hearing. Hearings must be requested in writing not later than five (5) business days subsequent to receipt of their violation/assessment notification or the owner is deemed to have waived his/her right to a hearing.

(b) **Length of time to Cure Violation.** Regardless of other cure periods which may be provided elsewhere in the Association's rules, the Board or its designee, at its sole discretion, shall determine the appropriate cure period for each successive violation and shall make the owner aware of any determined cure time prior to assessing any charges. If the owner requests a hearing regarding the violation and the assessment of charges, a hearing shall be held and said charges held in abeyance until the outcome of the hearing is determined. If the Board determines that the violation existed at the time of the notice, all violation charges shall be effective as of the date of the violation.

(c) **Violation Charges.** The charges will begin to accrue, at a rate of \$10 per day for a period not to exceed 90 days for continuing violations, or up to a maximum of \$50 per occurrence for separate and discrete violations. The charges shall be treated in the same manner as any assessment against the lot and collected as such. The violation charges shall not terminate until a re-inspection has determined that the lot owner has abated the violation. The lot owner is responsible for requesting a re-inspection when he has corrected the violation, and such re-inspection shall be scheduled promptly by the Association or its agent.

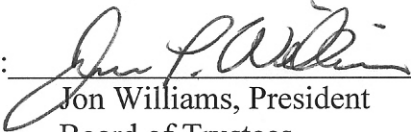
(d) **Entry Upon a Lot.** Prior to the Association's exercise of its self-help right (the right to enter upon the lot and perform any necessary repair, maintenance and restoration, at the lot owner's expense), as described in Article VI, Section 2(b), the Association shall in every instance adhere to the due process procedure set forth in the Association's Resolution on Due Process Procedures (2009-~~OL~~). The Association shall regard self-help as an extraordinary remedy and as a last resort when all lesser means of enforcement have failed to induce compliance. The Association shall exercise such remedy only upon the approving vote of 2/3's of the Board of Trustees and after sufficient notice to the lot owner of the Association's intent to enter upon the lot and the time/date of the intended entry.

(A) Nothing herein is meant to preclude the Board of Trustees from the use of other remedies or sanctions available to the Association in order to obtain compliance with the requirements. The Association reserves the right to exercise all other powers and remedies provided by the Association's Declaration and Bylaws, or the laws of Virginia and Fairfax County, including, but not limited to, obtaining injunctive relief in a court of equity or levying other monetary charges as a sanction.

I hereby certify that the foregoing Resolution was duly adopted by the Board of Trustees of the Wexford Conservancy, this 110 day of September, 2009. This policy shall supersede and replace all previously adopted policies concerning lawn maintenance.

This Resolution will become effective Nov. 1, 2009.

WEXFORD CONSERVANCY

By:   
Jon Williams, President  
Board of Trustees