

THE SETTINGS OF BLACK MOUNTAIN

Architectural Design Standards and Guidelines



PREFACE

These Architectural Design Standards and Guidelines (Guidelines) replaces The Architectural Design Standards and Construction Guidelines that was last updated in January 2020, and is effective for all Design Review Applications, Applications for Residential Improvements, and Tree Removal and Replacement Requests submitted on or after (effective date). A separate document entitled “Construction Processes” addresses in greater detail processes for building a home in The Settings of Black Mountain

This document has been prepared to guide the property owner (Owner) with:

1. designing and building a house in The Settings of Black Mountain (The Settings)
2. designing and building additions and modifications to existing houses
3. designing and installing landscaping/hardscaping for new and existing homes-.

The material has been prepared by the Design Review Board (DRB) and approved by the Association Board of Directors (BoD) per the Governing Documents of the Association.

These Guidelines have been prepared by the Design Review Board (DRB) and approved by the Association Board of Directors (BoD) as authorized by the Declarations of Covenants, Conditions and Restrictions For The Settings of Black Mountain (CC&R), recorded Book 3993, Page 34, land records of Buncombe County, North Carolina, and are binding on all owners as set forth in Section 9.2 (f) of the CC&R.

The steps are briefly outlined below and are more fully set forth in the separate Construction Processes.

| STEP | ACTIONS | RESPONSIBILITY |
|-----------------------------|--|--------------------------|
| 1 Vision | Review Association/DRB and site documents | Owner |
| | Begin selection of design/build/landscape teams | Owner |
| | Contract for topographic and tree survey of property | Owner |
| 2 Planning | Initial on-site concept evaluation meeting with DRB ¹ | Owner, Designer, Builder |
| | DRB communicates site concerns, if any | DRB |
| 3 Preliminary Design | Submit: 1) preliminary design review fee of \$2500 2) completed application and affidavit forms 3) preliminary design and site plans | Owner |
| | Preliminary design review; documented response to Owner | DRB, Reviewing architect |
| 4 Final Design | Submit final design and site plans | Owner |
| | Final design review; documented response to Owner | DRB, Reviewing architect |
| 5 Pre-Construction | Submit Construction Compliance Deposit & Road Use Fee of \$3500 ² | Builder |
| | Obtain building permits | Builder |
| | Complete House site staking and tree marking | Owner, Builder |
| | DRB to review staking & marking on-site; documented response to owner | DRB |
| | Clear site for construction | Builder |
| | DRB to review clearing & erosion control on site; documented response to owner | DRB |
| 6 House Construction | Construction schedule to be advised to DRB | Owner, Builder |
| | Submit Preliminary Landscape Plan | Owner, Builder |
| | DRB landscape plan review; documented response to owner | DRB |
| | Periodic DRB inspections | DRB |

| | | |
|---------------------------|--|-------|
| 7 Landscape | Submit final landscape plan | Owner |
| | DRB landscape plan review; documented response to owner | DRB |
| | Final landscaping completed per approved plan | Owner |
| | | |
| 8 Project Closeout | Notify DRB when substantially complete or CO issued | Owner |
| | Final inspection by DRB; documented response to owner | DRB |
| | Construction deposit less unpaid fines refunded to owner | DRB |

¹ If the owner chooses not to move forward with the construction of their home, the owner may be charged \$500.00 for this service

² \$2000 for Road Use Fee, \$1500 refundable Construction Compliance Fee.

Questions related to any interpretations, contradictions or omissions should be brought to the attention of the DRB at DRB@tsobm.com.

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I. General Provisions

A. Design Philosophy

The Settings of Black Mountain (The Settings) exudes a sense of place that stems from the natural beauty of the forested mountainsides and the streams that flow to the Swannanoa Valley below. This sense of place is protected and extended by careful stewardship of the environment maintained by our residents and those who assist them in making their homes here. Houses in The Settings have been custom designed and constructed to be responsive to the topography and natural elements of their specific sites. These designs feature well-crafted details and quality materials that fit the Mountain Architecture of the neighborhood and provide unique character to each home. To preserve the quiet beauty and rich sense of place in our neighborhood, The Settings of Black Mountain Association (Association) strongly encourages future homeowners to engage qualified professionals experienced with working in mountain settings, as well as guiding the design and construction of their new homes.

What is Mountain Architecture? Mountain Architecture is a style that prevailed in the Southern Appalachian region between the Victorian Era and the Second World War (1910 to 1940). Architectural elements and details typical in quality houses built in this area are the essence of the vision for The Settings of Black Mountain. This style consists of bold, natural and textured buildings and materials. These buildings should functionally and aesthetically withstand rugged mountainous environments, as well as blend into the topography. Within the parameters of the mountain architecture style, the individual homeowner has the opportunity for creative use of design and materials.

Mountain homes should take advantage of nature by bringing the outdoors in through ample windows and natural materials, and by extending indoor living spaces to the outside (outdoor living rooms) with porches, terraces and other exterior areas. A home exterior should look as if it has grown out of the site. It can take advantage of the surrounding trees, boulders and other landforms by incorporating them into the home and the outdoor living rooms and designing around them. These are often more rustic than the typical home, and sometimes have an “old world” appearance. Designed tastefully, this will often give the home a “rustic elegance”.

The use of covered porches and decks and native materials such as natural stone, timbers, exposed rafter tails & brackets, wood clapboard siding, cedar shakes, and architectural roof shingles, is recommended and encouraged. Mountain style architecture has elements similar to other styles. Western ranch/rustic, Adirondack, Craftsman, Arts & Crafts, Prairie, Japanese, FarmhouseModern, and Old World European elements can be incorporated into the mountain style. Log houses, chalets, A-frames, tree houses or highly contemporary houses are not permitted.



Mountain architecture is organically massed to taper down into the site. Multiple volumes conform to the existing terrain and are in scale with the existing landscape. Large, symmetrical, obtrusive building forms are often avoided. Single-story elements help keep a mountain home residential in scale.



All house design plans will be reviewed and approved on an individual basis. **It is important to note that existing examples and/or prior approvals do not guarantee future acceptance. Duplicating the design of other houses in the community is not allowed.**

Maintaining the natural course of runoff from rain, without infringing on other properties, must be an integral part of the site development to prevent erosion. These points are reiterated through this document and by the requirements for stormwater management by the Town of Black Mountain.

The Design Guidelines and Building Standards are consistent with the Black Mountain-Swannanoa Chamber of Commerce “Blending Your Home Into Our Mountain Community” philosophy, which states,

“Design the site to minimize the removal of existing trees and greenery. Plan for runoff controls to prevent erosion. Minimize excessive artificial light. Plant native trees and shrubbery to enhance the natural look of your home.”

B. Function of the Design Review Board

The Design Review Board (DRB) is comprised of members appointed by the Association Board of Directors (BoD). Modifications and changes to these Design Standards and Guidelines may be required and implemented by the DRB as necessary, with approval by the Association BoD.

The DRB is charged to assist the Owner through the process of designing and building their house, while ensuring compliance with the architectural design standards and guidelines of The Settings. Compliance with state and local requirements is the responsibility of the Owner, who should ensure their team is experienced in these aspects.

The Declaration of Covenants, Conditions and Restrictions (CC&Rs) [<https://www.tsobm.com/wp-content/uploads/2019/01/CCR-Docs-Combined.pdf?x36566>] governing The Settings of Black Mountain community provide guidance and direction to the DRB for the purposes of applying design standards and guidelines. Every Owner should be familiar with the CC&Rs, especially section 9 as applicable to the DRB.

The DRB is willing to talk to and potentially meet with people who are considering purchase of a property in the Settings of Black Mountain (SOBM). Prospective purchasers often have questions about the Town of Black Mountain, the SOBM, and specific lots. DRB members can assist in answering questions about the community and the guidelines in general. They cannot answer specific questions about a lot or a proposed design for a lot. All information given by the DRB at this stage is general and nonbinding. The DRB cannot tell a potential buyer whether a design will be acceptable. As described in more detail within the Guidelines, the Town has specific zoning requirements. These include steep slope stability analysis, site disturbance and stormwater retention mitigation, building setbacks, etc., and should be discussed with the [Town Zoning] Department.

If potential owners have specific questions about the suitability of a site for specific needs, they are encouraged to seek professional opinions from a builder, architect, or landscape architect. Professionals with past experience in the community are familiar with the Guidelines and most suited for advice.

Potential purchasers also need to realize that specific features, design elements, site layouts, etc., for completed houses in the community may not meet the current guidelines, may have been granted a design variance approval, and/or may not be suitable on another lot.

The DRB will include the Owner in all communications with the property owners' agents (including architects, designers, builders, landscapers and others representing the owner), as they are related to the project and the processes stated in this document. Exceptions will include direct communications between DRB members, with the reviewing architect, reviewing landscape architect, and with the Board of Directors.

The Association does not assume any liability for any design, adherence to codes or ordinances, or information regarding the ability to construct on any house site.

C. Intent of Guidelines

The intent of the Guidelines is to provide Owners with a process to ensure adherence to the architectural design standards and construction guidelines, maintain consistency in the community theme, and preserve the natural beauty of the surroundings. Any failure of the DRB to enforce these guidelines shall not be construed as a waiver upon compliance.

Per the CC&Rs, the DRB, as granted by the Board of Directors has full authority to adopt and amend architectural standards, regulations, policies, procedures and guidelines. New guidelines or amendments shall apply only to construction and modifications commenced after the Board of Director's approval date for the new Guidelines.

It should be noted these requirements apply to original construction AND any remodeling, additions or modifications to the house or landscape where exterior visual changes or hardscapes are involved.

D. Design Review and Construction Process

The Architectural Design Review and Construction Process is a series of eight steps that take the homeowner through the entire process of building a home in The Settings. This document describes the Architectural Design Standards which are used in the review process. An additional document provides specific details for the Construction Process. The eight steps of the Construction Process are summarized in the table on the next page:

| STEP | ACTIONS | RESPONSIBILITY | TARGETED RESPONSE TIME |
|-----------------------------|--|--------------------------|--|
| 1 Vision | Review Association/DRB and site documents | Owner | Owner controlled |
| | Begin selection of design/build/landscape teams | Owner | Owner controlled |
| | Contract for topographic and tree survey of property | Owner | Owner controlled |
| 2 Planning | Initial on-site concept evaluation meeting with DRB ¹ | Owner, Designer, Builder | Within 10 business days of owner request to DRB |
| | DRB communicates site concerns, if any | DRB | 10 business days after site visit |
| 3 Preliminary Design | Submit: 1) preliminary design review fee of \$2500 2) completed application and affidavit forms 3) preliminary design and site plans | Owner | Owner controlled |
| | Preliminary design review; documented response to owner | DRB, Reviewing architect | 25 business days from receipt of all submittals |
| 4 Final Design | Submit final design and site plans | Owner | Owner controlled |
| | Final design review; documented response to owner | DRB, Reviewing architect | 25 business days from receipt of all submittals |
| 5 Pre-Construction | Submit Construction Compliance Deposit & Road Use Fee of \$3500 ² | Owner, Builder | Builder controlled |
| | Obtain building permits | Builder | Builder controlled |
| | Complete House site staking and tree marking | Owner, Builder | No more than 30 calendar days before inspection |
| | 5A DRB to review staking & marking on-site; documented response to owner | DRB | 5 business days after request; 5 business days after site visit |
| | Clear Site for Construction | Builder | Builder controlled |
| | 5B DRB to review clearing & erosion control on-site; documented response to owner | DRB | 5 business days after request; 5 business days after site visit |
| 6 House Construction | Construction schedule to be advised to DRB | Owner, Builder | Owner/Builder controlled |
| | Submit Preliminary Landscape Plan | Owner, Builder | Within 30 days after clearing |
| | DRB landscape plan review; documented response to owner | DRB | 20 business days after receipt of plan |
| | Periodic DRB inspections | DRB | |
| 7 Landscape | Submit final landscape plan | Owner | Minimum of 150 calendar days prior to proposed completion or Certificate of Occupancy (CO) |
| | DRB landscape plan review; documented response to owner | DRB | 20 business days |
| | Final landscaping completed per approved plan | Owner | Within 180 calendar days after receipt of CO |

| | | | |
|---------------------------|--|-------|---|
| 8 Project Closeout | Notify DRB when substantially complete or CO issued | Owner | Min 5 business days prior to requested inspection date |
| | Final inspection by DRB; documented response to owner | DRB | 10 business days after inspection |
| | Construction deposit less unpaid fines refunded to owner | DRB | Within 10 business days after final inspection response |

¹If the owner chooses not to move forward with the construction of their home, the owner may be charged \$500.00 for this service.

² \$2000 Road Use Fee, \$1500 refundable Construction Compliance Fee.

The Construction Guidelines document details the instructions, required documents, and applicable fees and deposits for each of these steps.

It is important that the property owner and their design/construction team read **both entire** documents which are "Architectural Design Standards" and "Construction Guidelines" carefully, before attempting to start the Design Review and Construction Process. That will help make the process quicker, smoother and help prevent costly mistakes during the process.

Owners must contact the DRB at the inception of the design/build process to establish communications. See Construction Guidelines for contact information.

E. Association rights to administer Architectural Design Standards and Construction Guidelines

The CC&Rs give the Association very specific rights to uphold these Guidelines. Improvements made to properties that are deemed to be nonconforming allow for removal, restoration and other remedies at the cost of the Owner, with or without their approval. Property owners should carefully read Section 9.12 of the CC&Rs prior to committing resources to commence improvements on their lot.

Many lots in The Settings have natural features such as springs, underground rock features, soil instability, streams and others that may be not known until site preparation or construction commences. **Owners should take precautions to retain professional services with experience and understanding of the local features to minimize the risk of interruption, unanticipated costs and delays, or nonperformance of the agreement to improve the property as approved by the DRB.**

F. Lot Specific Requirements

Lots in The Settings have different attributes. It is important for Owners to understand the category of lot, the zoning differences according to the Town of Black Mountain, and especially the conflicting building setbacks established by the Association CC&Rs and the Town.

The governing documents of the HOA authorize the Board to allow mergers of lots. Governance of this authority is described in the Lot Merger Policy for New Home Construction. This Policy states *"It is strongly advised that the Lot Owner discuss any proposed Lot mergers with the Association prior to execution of a merger. This will ensure that any requirements have been met and that the owner will be able to use design concepts which depend on the proposed merger. A merger request form must be submitted and approved before submitting a DRB application to construct a residence on the merged Lots."* For the purpose of these Guidelines, a 'lot' is defined as a single lot or an approved combination of lots merged into one.

1. Lot Categories

There are four lot categories within The Settings of Black Mountain: Cottage, Park Setting, Estate and Grand Estate.

Lot categories are subject to minimum house square footage and setbacks as noted in the next sections and are identified by lot numbers as follows:

- Cottage house sites (approx. 0.2 acres)
 - Lots 1 – 11 (zoned TR-4) (see zoning footnote below)
 - Lots 14-24
 - Lots 39-44
 - Lots 53-68 (zoned TR-4)
 - Lots 90-94
 - Lots 130-137
 - Lots 139-142
 - Lots 178-209
 - Lot 254
 - Lots 270-290 (zoned TR-4)

- Park Setting house sites (approx. 0.4 acres)
 - Lots 25-29
 - Lots 109-120

- Estate house sites (approx. 0.6 – 1.3 acres)
 - Lots 30-38
 - Lots 45-50
 - Lots 69-89
 - Lots 95-107
 - Lots 121-129
 - Lots 143-155
 - Lots 160-177
 - Lots 210-253
 - Lots 255-262
 - Lots 264-268
 - Lots 3A1-3A7
 - Lots 3A9-3A12

- Grand Estate house sites (approx. 10 acres)
 - Lots 156-159

Footnote to Town Zoning Requirements: The Town of Black Mountain made zoning changes in 2010 to establish minimum lot size and modify certain rear setbacks. These zoning requirements were fully effective as of March 2015.

Lots are zoned by the Town of Black Mountain. The Settings has two zones: CR-1 (*Conservation Residential*) and TR-4 (*Town Residential*). Most lots in The Settings are zoned CR-1, with the exception of a few Cottage Lots. Those lots zoned as TR-4 are noted above in

the categories of house sites. Also see Section 3 below for information on the setbacks required by Association and the Town zoning.

The Association Board met with Town officials in 2016, including the Planning Director. This meeting revealed a concern that the zoning designations mandate “*if a lot size is less than required for the zone, it can only be approved for a building permit with a variance (by the Town Board of Adjustment).*” This potential problem affects approximately 90% of the lots in The Settings. Town officials have informally agreed to forego this variance requirement, allowing the Association guidance for home sites and required home size per the CC&Rs and these DRB Architectural Design Standards. The Town acknowledged the inconsistency in the minutes of the Planning Board meeting on November 24, 2014.

2. Square Footage Requirements

Houses shall meet the minimum square footage (heated area) noted below, excluding garages, porches and decks. Multi-story houses include structures with more than one finished level.

| | | |
|----------------------|---------------------|---|
| Cottage: | Single-story house: | 1200 sq. ft. |
| | Multi-story house: | 1000 sq. ft. on main floor; 1600 sq. ft. total on 2+ levels. |
| Park Setting: | Single-story house: | 1400 sq. ft. |
| | Multi-story house: | 1200 sq. ft. on main floor; 1800 sq. ft. total on 2+ levels. |
| Estate: | Single-story house: | 1800 sq. ft. |
| | Multi-story house: | 1400 sq. ft. on main floor; 2300 sq. ft. total on 2+ levels. |
| Grand Estate: | Single-story house: | 3000 sq. ft. |
| | Multi-story house: | 2000 sq. ft. on main floor; 3000 sq. ft. total on 2+ levels. |

The DRB reserves the right to vary these requirements due to lot dimensions, physical features or topography. If two lots are merged, the minimum square footage shall be that which was required by the larger of the two lots.

3. Setback Requirements

It is the **Owners’ responsibility** to confirm lot setbacks with the DRB and the Town of Black Mountain prior to starting the house planning process.

| Lot Type | Front Setback | Rear Setback | Side Setback (see Note 2) |
|------------------------|------------------|--------------|------------------------------|
| Town TR-4 (see Note 3) | 20' | 15' | 10' |
| Town CR-1 (see Note 3) | 30' (see Note 1) | 30' | 10' |
| All per Association | 30' | 20' | 10' |

Note 1: Steep Slope Lots may have reduced front setbacks of 25’ in accordance with Town of Black Mountain Zoning Ordinance and requires Zoning Department verification.

Note 2: Side setbacks may differ when facing a street on a corner lot.

Note 3: Stream buffers may affect rear, side or front setbacks in certain cases, as determined by Surveys and enforcement by the Town.

Where the setback required by the Association is more restrictive than the setback required by Town zoning, the Association setback governs. Where the setback requirement by the Town is more restrictive than the Association requirement, the Town requires a variance request to allow the Association or other requested setback. Distances in **bold red** font are the prevailing setbacks unless variances are granted.

The DRB strongly recommends owners contact the DRB ahead of applying for setback variance approval from either the Town or the Association. All variances to zoning ordinances must receive approval from the Town Board of Adjustment before submittal of the Design Review Application to the DRB.

Front setbacks are measured from the back of the curb to the closest edge of the Structure. All foundations above grade and siding of the house structure must fall inside the building setback lines. Only approved bump outs and roof eaves may extend beyond the setbacks, and these may be limited by the Town of Black Mountain. As of the effective date of these guidelines, the DRB understands (from the Town Zoning Ordinance) that roof eaves must not extend more than 18 inches outside the setback lines. All porches and decks (covered or uncovered) must likewise be located within the building setback lines. Structural retaining walls for driveways and landscaping will be reviewed on a case-by-case basis with consideration to the proximity of adjoining lots, but generally shall not be higher than 4 feet high when outside the side and/or rear setback lines.

Corner lot house sites and those having frontage on two or more streets have additional setback requirements. Owners should verify those requirements with the DRB and the Town of Black Mountain.

Driveways may pass through a deeded right-of-way area or easement to connect to the street.

The definition of “Streets” is all paved road surfaces, including turnarounds and tees at the end of cul-de-sacs.

The DRB reserves the right to vary these requirements due to the presence of natural features or proximity to other houses/building sites.

G. Approved Builder List

The Approved Builder list has been developed to ensure that houses built in The Settings of Black Mountain are consistent with the Design and Construction Standards. Builders on this list have demonstrated their ability to manage the challenges of construction that can include steep slope foundations, high wind conditions, and water drainage/run off, etc. Refer to The Settings of Black Mountain website (tsobm.com) for an up-to-date list of Approved Builders, or request the Approved Builder list by emailing “settingsofblackmountain.drb@fsresidential.com”.

The list of Approved Builders is based upon application to the Association. Builders have been reviewed for qualifications, licensing, financial strength and references. The list is not to be construed as an endorsement of any of these builders. Property owners are encouraged to perform their own due-diligence of the builders' capabilities, and carefully check references and history within the community.

Property owners may engage other builders to construct their houses, following the same screening process for approval. Builders can request an Approved Builder application by emailing “settingsofblackmountain.drb@fsresidential.com”.

Only builders who have been approved by the Association will be authorized to commence new house construction or major remodeling in The Settings.

Approved Builders are subject to periodic review for compliance with standards and quality of work.

II. Design Guidelines

The following sections give specific guidance to design elements of the house. Any desired deviation from these guidelines should be noted as a variance request in the Design Review Application.

A. House Orientation

The Owner should consider the preservation of existing trees, vegetation, streams, creeks and the natural flow of surface drainage into the house orientation on the lot. Preserving or re-establishing a natural buffer between homes should be considered with the Concept plan. Major considerations should include locations of garages and driveways. Every effort should be made to minimize disturbance to the natural lay of the land, which sometimes can be achieved by meandering the driveway, thus lessening the slope. The use of low retaining walls, stepped retaining walls, or reinforced slopes can potentially reduce the extent of disturbance that would be required if only cut or fill slopes are used. This in turn helps the unnecessary cutting of trees or natural vegetation.

Consideration should also be given to placement in relation to neighboring properties and the relationship with view corridors. Showing neighboring homes in the plan view and in section would show the relationship between homes and should influence the site plan and the landscape plan. At the very least, this could be a screenshot of an aerial photograph and topography that is available through the County. This would give the DRB some assurance that the relationship between homes is being considered.

B. Overall Building Height

Each house plan is evaluated as to the site specific plan, views to and from adjacent structures and natural environment. The structure height may be no more than three floors, to a “maximum height” of 35 ft. The maximum height of a structure will be calculated based on the vertical distance from the grade to the roof. The grade is defined as the mean of the highest and lowest elevations at which the structure meets the ground. The roof is defined as the mean of the eaves and the ridge of the highest main roofline, exclusive of dormer roofs.

C. Major Architectural Design Elements

General Note: The Settings of Black Mountain is a certified Firewise Community. Owners are encouraged to be aware of construction opportunities that minimize the risk of wildfires upon their homes. Refer to Appendices 5 and 6 for recommendations. Specific opportunities include extensive use of fire-resistant materials, house siting, access, attachments and appendages. All Firewise suggestions are voluntary upon the owner, but all elements must still comply with these Guidelines.

1. Foundations

Foundations can be a complicated element of houses in the community, especially when located on lots with significant slopes. As such, they should be professionally designed and arranged to provide the necessary base for the house, but not become the focus. The DRB may require additional elements to de-emphasize the mass of foundation walls as they relate to the surroundings, particularly with respect to height and with appropriate fenestration.

Acceptable materials for foundations are natural stone, natural stone veneer, pebbledash, or DRB -approved styles of rough-textured stucco.

Exposed concrete, cinder blocks and cross-hatched lattice are not allowed.

See also the Water Table section in this document, as they could apply to tall foundations.

2. Exterior Wall Materials

Acceptable materials for exterior wall finishes and trim are painted or stained horizontal wood siding, cementitious fiber or other composite siding or shakes (e.g. HardiPlank), cedar shake shingle siding, poplar bark siding, vertical board and batten siding, natural stone, natural stone veneer, and pebbledash or DRB-approved rough-textured stucco. Additional materials will be reviewed on a case-by-case basis.

Manufactured stone veneer is not allowed. Approved rough-textured stucco may be used above a reference point where the finished grade intersects the side of the house facing the street only upon DRB approval. If rough-textured stucco is used in this manner, it may also be used on chimneys. Vinyl or aluminum material is not allowed on exterior walls of the main structure or on any detached structure.

Exterior vents shall not be visible from the street. Consideration will be given to variations where houses face multiple streets.

3. Ceiling Height

Minimum ceiling height is 9 feet on the main level.

4. Roofs

The primary roof of a house, including the garage, shall have a roof pitch between 4-in-12 and 12-in-12, as architecturally appropriate, subject to DRB approval. Porch, bay and dormer roofs may have lower pitches, subject to DRB approval. Large roof expanses when viewed from the street are not permitted.

Acceptable roofing materials are natural or synthetic slate, standing seam metal, and fiberglass composition architectural shingles with a minimum 30-year rating. Solar panels incorporated into the roofing materials are allowed per the guidance in item D.9 of this section. Roof materials and colors must be approved by DRB. Roof flashing shall be of a color similar to the roof.

Items that penetrate the roof such as vent stacks, vent fans, pipes and sky lights shall not be visible from the street. Consideration will be given to houses with multiple street-side elevations. Roof-mounted items shall blend in with the roof color.

5. Dormers

Dormers are frequently found on houses of the mountain architecture. They should be appropriate in style and aligned for balance with the main structure. Dormer roof forms may be gable, hip or shed. Dormer eaves must have a minimum depth of 12 inches.



6. Roof Eaves, Cornices and Trim

Deep roof eaves with exposed rafter tails are encouraged. Roof eaves shall be in proportion to the size of the house, and a minimum of 24 inches deep. Variations are acceptable so long as they are in proportion to the house, as determined by the reviewing architect, and approved by the DRB. Exterior trim is to be wood, cementitious fiber board or other composite material and shall be painted or stained. All cornices, friezes and trim shall be consistent with the style of the house and be painted or stained. Roof fascia, including rake fascia, must be at least 7 ¼ inches and stepped. Deeper fascia may be required based on scale and mass of house and roof. Rake eaves should incorporate brackets, supports, or other architectural devices to add appropriate detailing.



If soffits are used, they shall be tongue-and-groove wood or composite material or smooth hardiplank with rafter tails and shall be painted or stained. If fiber cementitious product is used, brackets or some sort of architectural element should be used incrementally. Plywood is not permitted.

7. Entry Features

Covered porches are recommended and encouraged. If space requirements are limiting factors, the main entry of the primary structure must have at least a covered stoop in proportion to the overall front elevation. See Section 10 for specific requirements for porches and decks. If a secondary door is located at the front elevation, it is to be arranged so not to take away the focus of the main entry.



8. Water Tables

All houses including outbuildings shall have water tables. A **water table** is an architectural feature that consists of a projecting course that deflects water running down the face of a building away from lower courses or the foundation, though they are often primarily decorative and serve to break up large, continuous, vertical expanses of wall. A water table may be found near the base of a wall or at a transition between materials, such as from wood to stone.

Water tables must be expressed in a horizontal band around the house at each finished floor height. This water table may be a wood, cementitious fiber, other composite materials, or masonry/stone band with a drip cap. Water tables must be predominant around the entire perimeter of the structure.



9. Exterior Windows and Doors

Windows and doors shall be appropriately sized, balanced and proportioned for the style of the house. All windows and doors on the main floor must have a minimum head height of 7 feet unless in a bay or as an accent window. All windows and doors shall have at least 3-1/2 inch wide jamb trim and head trim. Transoms above minimum head height of windows and doors are permitted.

All exterior glass shall be divided by substantial muntins and mullions into sections not exceeding 12 square feet each.



Exterior materials used for window frames, muntins and mullions shall be wood, aluminum, fiberglass, or other cladding as may be approved by the DRB. A muntin (glazing bar) is a small bar that separates two pieces of glass and divides the window into multiple lites. A mullion is a bar or post that separates two window or door units.

Grids-Between-Glass (GBG) type windows are not allowed. No mirrored film or unusual tinting will be permitted. Glass block exterior windows are not allowed.

Vinyl windows are not allowed. Window trim must match the door trim and house trim. The material used on the interior of windows is not subject to DRB approval. **The materials and colors of the exterior frames, muntins and mullions must be submitted for approval in the Design Review Application.**

Bay windows shall be custom built from individual window units, not manufactured “bay window” assemblies. The foundation on bay windows or other “bump outs” must extend to the ground if located on ground floor. If located on an upper story, architectural support brackets may be used below as approved by the DRB.

Storm windows, doors, rolling shutters, or other storm devices require DRB approval.

Windows and doors within a screened porch do not require muntins.

Single or paired doors may be used. All doors shall be consistent with the architectural style of the house. Sidelights and transoms may be used in conjunction with front doors. Door trim shall have a minimum 3-1/2 inch jamb trim and 5-1/2 inch head trim. Sliding glass doors and

telescoping sliding doors may be considered by the DRB if located on the rear or side of house under a covered porch.

10. Porches and Decks

Porch design and placement must reflect the house design and architectural style of the house. Street-facing porches shall be completely covered and be a minimum of eight feet (8') in depth. Uncovered porches and street-facing screened or glazed (glass) porches require DRB approval. Screened porches on the side of a house must be recessed at least two feet (2') from the front or street-facing elevation of the house. .

Balconies, as architecturally appropriate and with DRB approval, may be utilized on floors above grade level when accessible from an interior room. A balcony is defined as no more than 4 feet, 6 inches in depth, assuming handrail is part of measurement. They must be enclosed with rails or balustrade consistent with others on the house.



Exposed porch ceiling materials shall be tongue and groove, bead-board, board and batten, and/or exposed rafters, and constructed of wood, cementitious fiber, other composite materials, or other DRB-approved material. Porch ceilings must be either stained or painted with a DRB-approved color.

Columns shall be made of wood, stone, brick, or composite material complementary with the style of the house. Newel posts shall be made of wood or composite material. Balusters shall be made of wood, composite material, powder coated steel or aluminum, subject to the color being approved by the DRB. Horizontal stainless-steel cables may be utilized instead of vertical balusters, subject to the other provisions for columns and newel posts. All porch railings shall have substantial top and bottom rails and shall be made of wood or composite material. The maximum opening between balusters or cables must be in compliance with applicable Building Codes. Any other styles of porch railing are subject to DRB approval.

Porch piers shall be finished completely or partially with natural stone/stone veneer, pebbledash stucco, or rough-textured stucco. Foundation screens may be vertical or horizontal spaced wood boards, subject to DRB approval. In line with Firewise construction recommendations, composite materials should be considered for use on decks, porches, columns, foundations screens, etc., in lieu of wood.



Columns on porches shall be round, square, or square-tapered; corners may be chamfered. Porches that are larger in proportion to the house must present a substantial look to the box columns.

Multiple story porches and/or decks are generally allowed only on the rear elevation. On sites where the main entrance of the house faces away from the street, the DRB may consider double-stacked, covered porches on the street side of the house. Guidelines for materials, colors, and finish details remain the same for all porches on all elevations.

The preferred location of uncovered decks is on the non street-facing side of the house.

Any uncovered street-facing deck requires specific DRB approval. All decks must be located entirely within the building setbacks. As these spaces are an extension of the house, they should be in keeping with the style, materials, color and detailing of the main structure.

Awnings are permitted on the rear of the house, provided they are retractable, and are subject to DRB approval of color.

Grills that are built into structures must be located so as not to be seen from the road and appropriately recessed. Grills should be used off the street-facing side of the house.

11. Chimneys

Chimneys are desirable architectural elements in mountain vernacular style homes. Chimney design and proportion shall be consistent with the style of the house. Chimneys that are visible or expressed as a design element on exterior walls shall extend to the ground. An exception may be considered for exterior wall fireplaces where the chimney is only visible above the roof. All vented fireplaces must be vented only through a chimney.

Chimneys shall be finished with natural stone, natural stone veneer, or stucco consistent with the other material utilized on the house. Material restrictions noted for walls in Section II.C.2 also apply to chimneys.



Metal fireboxes are permitted when encased by a masonry veneer. If a fireplace insert is used, the spark arrestor shall be painted flat black and surrounded by a stone, metal chimney cap or other cover approved by DRB. Exposed galvanized caps are not allowed.

Exterior wood burning fireplaces are allowed only when fitted with spark arresting chimneys and hearth screens. Due to the prevalence of high winds at certain elevations and locations within the community, exterior fireplaces may be restricted by the Association depending on the physical location of the house.

12. Garages

All houses shall provide parking for at least two automobiles within an enclosed garage. Attached garages having courtyard, side or rear entry, or below grade are preferred styles when the lot characteristics allow for such. Garages having entry facing the street shall not protrude beyond the predominant front wall plane of the house.

Detached garages may have reduced setback requirements with variance approval from the Town of Black Mountain and the DRB.

The garage should complement the house architecture with similar materials, roof slope, and detailing. Certain garages, depending on orientation and location on the site, may require architectural elements such as brackets, modified rooflines or others.

All garages must have doors and be coordinated in design, window pattern and paint or stain color similar to the house. **Garage doors shall have a maximum width of ten feet (10') and a maximum height of eight feet (8')**. Other sizes may be considered when proportional to and in scale with structure, but not dominating other visible features of the house, and as approved by the DRB. Garage doors must each appear as single carriage-house style doors. Flush or raised panel garage doors are not permitted.



All homeowner-owned recreational vehicles such as trailers, motor homes, campers, boats, canoes, golf carts, four-wheelers, motorcycles and bicycles must be parked within a garage. Maximum size restriction for garage doors may preclude storage/parking of larger recreational vehicles within The Settings.

Future modifications to houses must retain garage capacity for at least two automobiles.

13. Driveways

Driveways are an extended feature of the house site and should blend naturally with their surroundings. Owners/Builders are required to install a finished driveway from the street edge to the garage of each house.

Driveways should not be the prevailing feature of the site and should not cover more than 20% of the front lot area of the house site. The “front area” is defined as the area between the side lot lines, the inside of any curbs, and the front of the house as noted by the closest point of the house to the street. Driveways, or portions thereof, that are proposed for any area outside of the building side setbacks, must have variance approval. Consideration may be given for the use of paved “tire tracks” with driveways in the side setbacks or to minimize the amount of paved area.

On lots that have a sidewalk, the minimum distance from the back side of the sidewalk to the garage door is 20 feet to allow for a vehicle to park without blocking the sidewalk, subject to need for and/or approval of setback variance. Sidewalks are not to be removed or altered, and if damaged during construction, shall be replaced by the Builder.

Materials used on each specific house site must have prior DRB approval. Driveways may be paved with concrete pavers, intrinsically stained concrete, concrete that has been etched and stained, or exposed aggregate. On lots that have a sidewalk, the driveway and any walkways are permitted to have unstained concrete between the outside edge of the curbing and the sidewalk. From the sidewalk to the garage, the above stated guidelines apply.

Permeable materials may be required for instances where the driveway area extends into the building setbacks, covers more than 20% of the area in front of the house, or is otherwise required by the Town. **Asphalt paving is only allowed on Estate or Grand Estate house sites and is not permitted on Cottage and Park Setting sites.**

House sites with a driveway of 20% or greater grade may be limited on material selection options, and prior approval is required for any variance. Driveways sloping from the house site down to the street must not be the primary method of stormwater drainage and should be designed to divert runoff into suitable reception devices.



The DRB may require a turnaround in driveways where cars backing out into the street present a safety hazard.

Guest parking areas for one or two cars are allowed and must be of materials similar to those used on the driveway. Guest parking must be located whereby leaving a space for cars to park without blocking the sidewalk. These parking areas may require screening with walls or landscape planting, depending on location. Locations of these areas are to be included with the final plan submission and the landscape design proposal and require DRB approval.

Driveways adjacent to or over a creek, stream or body of water may require installation of a culvert. The specifications must meet municipal or other statutory requirements. Headwall plans and materials require DRB approval, subject to requirements mandated by local regulatory bodies.

14. Walkways

Walkways, patios, decks and terraces are designed to be an extension of the architectural style of the house, and act as a transition from the house into the outdoors and its natural surroundings. The scale and materials used should complement the main structure. The use of all materials and colors must be approved by the DRB.

Houses must have a walkway from the main entry door to the driveway and/or sidewalk as applicable. Materials used in these areas should be consistent with the other elements of the hardscape design and require DRB approval.

Arrangement of these elements must consider retention of existing trees and shrubs, or replacement per DRB discretion.

15. Exterior Colors

Exterior colors shall be carefully evaluated for each site to ensure all structures on all lots will be harmonious and complementary. The color of neighboring houses will be taken into account. Exterior colors shall be specified in the design review application. **Samples of all exterior materials and colors and their locations shall be displayed on a Sample Board on site for written approval by the DRB.** Approval of the Sample Board must be obtained before painting the house. Principal colors shall be painted on their respective materials and be a minimum of 2' x 2' sample each. Trim colors shall be painted on their respective materials and be a minimum length of 2' each. Stained materials, stone, stucco and roof shingles shall be represented by samples large enough to compare in conjunction with other materials.

Review criteria shall include, but may not be limited to, the sheen of paint, stone or stucco accents, roof color, and neighboring properties' colors. Principal and trim colors for exterior surfaces must complement the architecture of the house. Trim colors shall be **compatible with the principal color(s) and** limited to architectural details such as fascia, frames, shutters, front door, etc. Exterior colors should complement the roof color.

Color palettes shall be earth tones. Earth tones draw from a color scheme that includes blacks, browns, grays and tans, and muted blacks and grays mixed with reds, greens and blues. The colors in an earth tone are muted and flat in an emulation of natural colors found in dirt, moss, trees, rocks and stone.

Light reflectance value (LRV) of all paint colors shall be no greater than 40.

Definition: Light Reflectance Value, or LRV, is a measurement of the percentage of light that is reflected (and conversely how much is absorbed) from a color (surface) when illuminated by a light source. LRV runs on a scale from 0% to 100%. Zero is assumed to be absolute black and 100% being perfectly white. An absolute black or perfectly reflecting white do not exist in our everyday terms. The average blackest black has an LRV of approximately 5% and the whitest white is approximately 85%. LRV is on the back of most paint color swatches and in the index of all major brands' fan decks.

LRVs less than 40 fall into the dark and medium spectrums. The mountain slopes make many houses visible from other areas of the community, the Town, and the surrounding mountainsides. The restrictions on light colors strive to make our community as unobtrusive as possible. LRVs greater than 40 are considered unnecessarily obtrusive in our surroundings. This LRV requirement precludes the use of whites and very light colors. Reflective material/colors are allowed only with natural unsealed copper materials. If copper is used for exterior applications, it must be untreated to allow for natural oxidation.

Owners may repaint in accordance with the originally approved exterior color scheme. DRB approval is required for all changes in exterior colors.

D. Other Architectural Design Elements

1. Shutters

Shutters may be used if appropriate to the style of the house. All shutters shall be of consistent design and be planked or louvered style and sized to cover one half of the window opening, or full size of opening if appropriate for size of window and style of design. Shutters do not have to be operable, but shall be outfitted with hardware, including hinges and shutter dogs installed beneath the shutter, to simulate operability. Approved materials include wood and composites.

2. Gutters

Gutters, if used, must be 6-inch ogee, square or half round with round, rectangular or square, flat-sided downspouts (not corrugated or fluted). Material shall be powder coated aluminum, anodized aluminum or copper. If copper is used, it must be untreated to allow natural oxidation. If aluminum is used, the color shall be harmonious with the color scheme of the house. The color of any leaf guards or other screens must be consistent with the color of the gutters.

If gutters are not used, discharge of rain water off roofs must be contained by other means.

The builder must provide detailed drawings showing all downspouts, French drains, gravel pads, and underground lines to route and control water run off with discharge points specified. Splash blocks are not allowed.

3. Accessory Structures

No house site shall have more than one outbuilding. A detached garage is considered an outbuilding. The design and location of the outbuilding in relation to the main structure is an integral part of the total approval process. It must be within building setbacks and comply with all local ordinances. Materials, style and color should be reflective of the main house.

Accessory structures are not allowed on a lot unless there is a home already built or being built at the same time. Accessory structures cannot be utilized unless the main house has a certificate of occupancy. Accessory structures design and usage must comply with the CC&R and Architectural Design Standards and Guidelines. The accessory structure may not be rented or leased independent of the main house. Only one mailbox is permitted per property.

Accessory structures must conform in exterior design and quality to the primary structure. No separate driveway / access is permitted from the street. If utilities will be included they must be

underground. Accessory structures, other than detached garages must be single floor structures. The accessory structure will be visually subservient to the primary structure. Considerations include:

- Limit the size to functional need only and to not exceed 50% size of the main level of the primary structure or 800 sq. ft., whichever is less
- Place the structure behind the house if possible, or to the rear of the lot away from the street, and otherwise place in coordination with the function it serves (i.e., a garden shed incorporated within the garden area).
- Blend landscape of the accessory structure to the overall lot landscape.

If a guest quarter or secondary dwelling is requested, concept design review with the HOA Board is suggested.

As long as an accessory structure exists on a property, it may not be separated from the main home through subdivision.

4. Mailboxes

Mailboxes are provided by the Association at the owner's expense and shall meet the standard design adopted by the Association. Contact the Management Company to purchase a mailbox.

The standard mailbox for the Settings of Black Mountain is the Whitehall Custom Mailbox and Post, in the configuration described below. These mailboxes are manufactured from rust-free aluminum and finished with weather-resistant, powder coat paint.

The standard configuration of the mailbox is as follows:

| | |
|---------------|---|
| Color: | Bronze or Black only |
| Post: | Deluxe Post |
| Post Top: | Pyramid Cap |
| Side Plaques: | Side panel plaques to include large numbers and the street name in smaller type as shown below. Due to space constraints, it may be necessary to leave off the street type (Drive, Lane, Blvd, Loop, Etc.). |

Allowed options include a round finial post top, a newspaper holder, and an initialed plaque for the door. All options shall be in the same finish as the selected mailbox.

The mailbox shall be installed over a wood post per manufacturer's instructions with the height and location in compliance with US Postal Service standards.



5. Mechanical and Utility Equipment

Equipment such as HVAC units, utility meters, electrical panels, condensing units, generators, or other similar devices outside of the house will be located in the rear or side yard. If visible from the street, they must be screened. Screening may be accomplished with any approved plantings, wood (or composite material) screens and/or masonry walls. Wood screens must be painted to match the siding color. This criterion also applies to any irrigation, yard or pool equipment. Location and screening of all mechanical generators and utility equipment must be included in the final plan, with screening detail outlined.

6. Fences and Enclosures

a) General Requirements

The CC&Rs make clear that the existence and design of any fence or similar structure in the Community is subject to prior DRB approval. Walls, enclosures and barriers are considered fences.

In general, fencing is undesirable in the Community. Lots are relatively small, providing minimal distance between residences. Owners have decided to live in the Community, by and large, because of the natural beauty of the forest environment, the vista of trees, flowering bushes, streams, wildlife, and mountain views. Another facet of living in the community is that of being a close community of neighbors where views of mountains, slopes, hillsides, and streams are shared. Neither of these two objectives is compatible with fencing. Fencing makes the existence of natural trees and shrubs difficult and constrains the sharing of the forest landscape and views - both near and far.

For these reasons, approval for fencing is unlikely except in very limited circumstances and requires DRB and Association BoD approval.

b) Specific Requirements

- Preference for Vegetative Screening. Although fencing can be a useful design feature to help screen utility areas or other specific site features from public view, most often evergreen vegetation would be better for this purpose.
- Sight lines and Views. The DRB will place great emphasis in the review of any proposed plan for fencing on the effect it could have on the maintenance of open views within the Community.
- Fence and Gate Location. Proposed fence plans must show the fenced area to be:
 - completely to the rear of the house,
 - adjacent to the rear face of the house,
 - completely within lines extended to the rear from the sides of the house,
 - within the lot side and rear setbacks, and
 - unobtrusive to neighboring properties, to common areas, and to vehicular and pedestrian traffic.
- Fenced Area. Any fenced area in a permissible location may not exceed the total area as approved by the DRB.
- Fencing Material. Fencing material must be compatible with the material and style of the house and must be approved by the DRB.
- Fence Height. Any fence must follow the natural contours of the terrain and may not be higher than 4 feet at any point.
- Transparency. In conjunction with the requirement to be unobtrusive, the fence face shall be at least 75% transparent. This means the face area of the structure shall be no more than 25% of the total area.
- Fence Color. Proposed fence color must be compatible with the house color scheme and blend into the landscaping plan.
- Accessories. Requirements for DRB approval extends to fence gates, hardware and ornamentation.
- Chain link or wire fences, picket fences or rail fences are not permitted.
- Easements and Utilities. Proposed fence plan must be consistent with previously granted easements and afford access to all utilities.
- Fire-fighting Access. Proposed fence plan must not impede fire-fighting access.
- Water Flow. Fence or similar structure must not impede the flow of any surface water or stream.

- Pet Enclosures. Dog-runs are prohibited on any Lot by Section 10.7 of the CC&Rs. The Association interprets “dog run” to be a structure or device having a main function of providing exercise for a pet. An enclosure that does not have such a main function and is otherwise approved as being in conformity with these guidelines and other DRB requirements is permissible.

This general guideline does not apply to the establishment of any fence or similar structure by the Association for safety, boundary marking and other purposes.

7. Exterior Lighting

Exterior lighting is an integral part of the architecture and aesthetics of a house and landscaping. It is also a means for safety and security. At the same time, lighting can be intrusive to others if not carefully considered and professionally designed.

As a general guideline, lighting should:

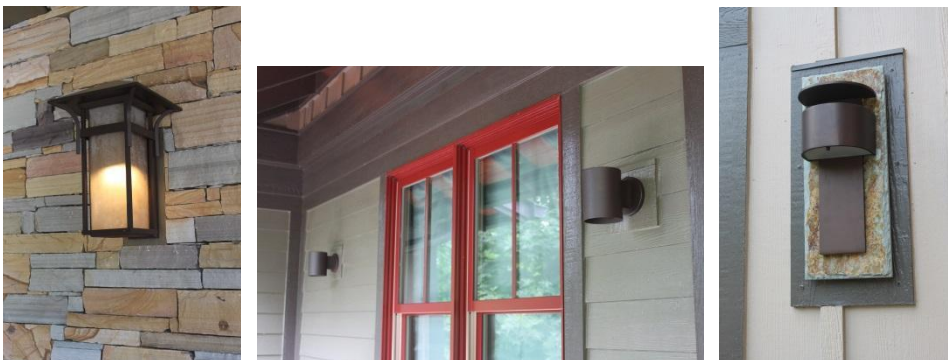
- be on only when needed,
- light only the needed area,
- be no brighter than necessary, and
- be of a warm color, i.e., less than or equal to 3000K, avoiding blue (cold) light emissions.

Consideration of the lighting will be given to how it impacts neighboring homes and the community.

Specifically, exterior lighting on the house must:

- be of a baffled design,
- be compliant with “dark sky” objectives,
- be in compliance with the Town of Black Mountain Lighting Ordinance, and
- be in keeping with the architectural style of the house.

Baffled design means the light source (bulbs) must not be visible. This can be accomplished either by shielding or by the use of translucent glass. Gas lanterns may be used at the front entrance or lamppost.



“Dark sky” compliant means the fixture must prevent the light from being directed upwards, or otherwise located to shield the sky from light. If the fixture is not rated as “dark sky” compliant by the manufacturer, it could be located under deep (at least 24”) eaves as one way to satisfy this requirement.

The Town of Black Mountain ordinance states:

*“Article VII. Lighting Regulations
Division 1. Generally
Sec. 20-337. Purpose.*

All business, residential and community driveway, sidewalk and property luminaires should be installed with the idea of being a ‘good neighbor,’ with attempts to keep unnecessary direct light from shining onto abutting properties or streets.”

A limited amount of architectural “accent” lighting may be applied but must be downlit only. The light source should not be visible from the street or adjacent lots.

The use of landscape lighting should be limited to paths, walkways and driveways. Low voltage fixtures are required. All landscape illumination fixtures must have a hooded cover. Landscape lighting must not exceed 3 feet in height above the ground, with the exception of lighting on retaining walls, which will be considered on a case-by-case basis. Landscaping with plantings and shrubs is recommended to blend these fixtures into its natural environment when not in use. Down lighting is the required method. The light source (bulbs) must not be visible from the street, adjoining lots, or the neighborhoods/town.

Floodlights or spotlights are permitted for security purposes only, subject to DRB approval. They may be turned on by switch or motion-detector but must not be obtrusive to neighboring properties.

Lighting such as located near the front door and on street address numbers may remain on at all times during darkness to allow for emergency response. Such lighting must be approved by the DRB and the Association Board.

Colored exterior lighting is allowed only for Holiday Seasonal Lighting which may be installed/displayed between December 1st and January 1st.

Each house site may install one decorative lamp post. The maximum height of the light and post must be no greater than 6 ft. The style and materials should be in keeping with the existing exterior fixtures, and otherwise meet all the requirements in this section.

All exterior lighting, including that on the house and in the landscape, must be submitted as part of the design review process and approved by the DRB prior to installation. Extensive exterior lighting should be avoided. String lights are not permitted. Any exterior lighting set to turn on by a timer must be set to turn off by 11 pm and must be approved by the DRB and Association BoD.

8. Pools and Spas

In-ground pools are allowed, with the provision that the pool, associated spa/hot tub, decks, and any enclosures be sited completely behind the house, and within the setbacks. All pools shall have an enclosure as required by local town and county ordinances and be in compliance with the section related to “fences and enclosures” in these guidelines (Section II.D.6.b). Pools are prohibited on corner lots, lots with streets at the rear, or lots backing directly to the rear or side of an adjacent lot. Above ground pools, either permanent or portable, are not allowed.

Above ground spas/hot tubs are allowed in rear and side yards only, and completely within the building setbacks, and on rear or side decks and porches. Above ground spas/hot tubs are prohibited on the street side of any lot.

Any pool, spa/hot tub and associated equipment must be screened from view and approved by the DRB.

9. Solar Systems and Collectors

Solar energy systems present a sustainable alternative to conventional energy technologies, with the potential to provide Owners with a significant portion of their energy needs while safeguarding human health and environmental quality. However, it is important that these systems be placed in a manner that respects the interest of all Owners.

Accordingly, solar energy systems, including solar collectors as defined by N.C.G.S Section 22B-20(b), may not be placed at the following locations if they are visible by a person on the ground:

- (1) On the façade of a house that faces areas open to common or public access:
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the house faces: or
- (3) Within the area set off by a line running across the façade of the house extending to the property boundaries on either side of the façade, and those area of common or public access faced by the house.

III. Landscaping and Related Hardscape Elements

A. General

The Western North Carolina Mountain area is rich with a wide variety of plant species and natural ground cover vegetation. From the tree canopies to the extensive groundcover, every plant selection should work in harmony with the existing vegetation of each lot. The goal of the landscape design is to make the house appear as if it is nestled in the natural environment. Dense evergreen planting between house sites will provide additional privacy. Natural areas which disturb less of the existing vegetation are encouraged over expanses of grass. Landscape should not impede the view features of other residences.

Recommendations for trees, shrubs, plants and groundcovers indigenous to this area are provided in Section C below.

A Landscape Plan for each specific house site shall be prepared by a landscape architect, landscape designer, or landscaper.

A **Preliminary Landscape Plan** is to be submitted within 30 days after the lot is cleared for commencement of construction. This allows the landscape plans to consider features that are required for compliance with a Stormwater Retention Plan, if applicable.

The **Final Landscape Plan** shall be submitted for DRB approval not less than 150 days from estimated Certificate of Occupancy (Appendix 1, Step 7).

The following provisions and restrictions should be noted.

1. Developed lots that have completed the approved landscape installation are encouraged to continue adding canopy trees and other understory elements. Approval of additional landscaping is not required.
2. Owners of developed lots are encouraged to remove dead trees and shrubs per the Firewise program landscaping guidance.
3. Removal of existing trees outside of the house construction envelope is restricted, as set forth in Section III. D. below.
4. Undeveloped lots may be partially thinned of small trees and undergrowth based on the policy that has been developed by the HOA Board. See the Process for Modification of Undeveloped Lots document. Certain special conditions are noted in items 5 and 6 below. Owners shall remain diligent in mitigating situations where safety or deterioration is evident. These might include trees, either dead or undermined, where they present an immediate danger of falling onto roads or developed lots. Other situations might include erosion

mitigation on slopes to prevent sediment running into streams, onto common property, other lots, or into roadways.

5. Undeveloped lots adjacent to developed lots may be landscaped similarly to the area around the primary home site, provided both lots are owned by the same party. No trees greater than 6" diameter are permitted to be removed unless lots are combined and DRB approves.
6. In certain situations, within the objectives of the Firewise program, undeveloped lots adjacent to developed lots may be altered to remove vegetation that falls within the construction area or wildfire hazard areas of a house. General guidance is provided in Section III.D.1 below. A written agreement must be executed between the owners of the developed and undeveloped lots and submitted to the DRB for approval.

B. Miscellaneous Hardscape Elements

10. Retaining walls

Retaining walls higher than 4 feet above grade must be within the envelope of the setback lines of the property and must be reviewed by a professional engineer. Structural retaining walls for driveways and landscaping will be reviewed on a case-by-case basis with consideration to the proximity of adjoining lots. Materials should follow the guidelines for exterior materials and colors, and coordinate with materials and colors of the home. The use of natural stone, thin cut stone veneer, or stucco is preferred for retaining walls. Other options may be considered for DRB approval.

2. Fire Pits, Detached Fireplaces and Outdoor Kitchens

Outdoor fire pits, detached fireplaces and outdoor kitchens are allowed with restrictions. Natural gas is the only fuel allowed for permanently installed fire pits. Portable fire pits using only propane as fuel are allowed. Per local ordinances, trash burning is prohibited.

3. Decorative art

Decorative yard art is subject to DRB approval.

4. Clotheslines

Clotheslines are not allowed on any house site.

5. Tennis courts

Tennis courts are not allowed within a single-family house site. Site specific exceptions may be approved by the DRB on Grand Estate Sites.

6. Swing sets

Swing sets are allowed only with the approval of the DRB, after review of the locations, designs, and materials.

7. Trash receptacles

Exterior household trash receptacles are not allowed.

8. Flag poles

Ground flag poles are not allowed. One decorative flag attached to the house is allowed.

9. Pet enclosures

Pet enclosures, houses, or similar structures, either portable or permanent are not allowed.

10. Water wells

Water wells will be allowed for irrigation purposes only. Their location must be within the building setbacks, completely behind the house, and out of view from the street. Landscape screening is required.

11. Propane tanks

Propane tanks are not allowed, with the exception of portable grills, portable spot heaters, or portable fire pits. Propane tanks must not be larger than 20 lbs. capacity.

12. Miscellaneous

Basketball goals, tree houses, or similar structures will be reviewed by the DRB on a case-by-case basis. Note these items are restricted by the CC&Rs of the Association.

13. Signs

- a) A single sign indicating “For Sale” or “For Rent” may be placed by the Owner or Builder. The sign must conform to the standards set by the Association. Contact the Management Company for details.
- b) A single sign may be placed indicating the presence of a security system.
- c) A reflective street number sign may be placed at the street in accordance with the Association standard, as pictured below.



The Firewise team has arranged for procurement and installation of reflective house number signs, in a style that is custom made for The Settings by the Black Mountain Volunteer Firefighters. These signs meet the Fire Department requirements for reflective house number signs. Homeowners should contact the Firewise Team to order reflective house number signs.

C. Recommended landscaping species native to Western North Carolina

See the link: http://ncwildflower.org/native_plants/recommendations for suggestions.

Also see Appendix 6 for plant selection considerations to minimize wildfire risk.

D. Guidelines for Tree and Vegetation Removal

The DRB Design Standards and Construction Guidelines, along with the recommendations of the Firewise program certification, allow for some trees and shrubs to be removed from the property. This should be considered carefully to follow the philosophy of “nestling your home into the environment”, minimizing disturbance to the natural attributes of the lot, and preserving the desirable examples of native trees and shrubs. Professional pruning of vegetation can often serve to create “view windows” without the need for complete removal.

i. 1. Property Areas for Tree and Shrub Removal

The approval and replacement requirements for tree and shrub removal is dependent upon where the vegetation is located on the property. For the purposes of vegetation removal, the property is divided into the following three areas:

a) Construction Area

The "Construction Area" is defined as 15 ft beyond the house "structure", as approved on the final site plan. The “structure” is defined as the house, certain outbuildings, and attached decks and porches. The construction area applied to driveways and front walkways is 10 ft. Other walkways, paths, stormwater detention areas, and outbuildings other than a detached garage are to be located to minimize removal of trees and vegetation.

b) Firewise Area

The "Firewise Area" is defined as the area from 15 ft to 30 ft from the structure. The Firewise program suggests that homeowners might want to consider removing highly flammable shrubs and trees from this area.

c) Remainder of Property

The "Remainder of Property" is defined as the area from 30 ft beyond the structure to the lot line.

2. Tree and Shrub Removal Guidelines

For each of the property areas described above, the following table describes what type of vegetation can be removed or pruned, when vegetation removal requires DRB approval, and when vegetation needs to be replaced.

Note the removal of some vegetation requires the Owner to engage the consultation of an ISA Certified Arborist (Arborist) of their choice, as described in Sections 4 and 5 below.

| PROPERTY AREA (WITHIN PROPERTY LINES) | ALLOWABLE REMOVAL | DRB APPROVAL REQUIRED? | ARBORIST REQUIRED? | REPLACE? |
|--|--|------------------------------|-----------------------|----------|
| Construction Area: Up to 15' beyond house structure Up to 10' beyond driveway & front walkway | All vegetation | Yes (see section 3) | No | No |
| | | | | |
| Firewise Area: 15' to 30' beyond house structure | Shrubs rated highly flammable | No | No | No |
| | Trees < 2" diameter | No | No | No |
| | Trees > 2" and < 6" | Yes (see section 6) | No | No |
| | Trees > 6" diameter rated highly flammable | Yes (see section 8) | No | Yes |
| | Trees > 6" in 'View Window' | Yes (see section 4) | Yes | Yes |
| | Pruning < 15' above ground | No | No | n/a |
| | Pruning > 15' above ground | Yes (see section 5) | Yes | n/a |
| Remainder of Property: 30' beyond house structure to property line | Trees < 2" diameter | No | No | No |
| | Trees > 2" and < 6" | Yes (see section 6) | No | No |
| | Trees > 6" in View Window | Yes (see section 4) | Yes | Yes |
| | Pruning < 15' above ground | No | No | n/a |
| | Pruning > 15' above ground | Yes (see section 5) | Yes | n/a |

Note: When referring to tree "diameter", this is defined as the measured diameter at breast height (DBH), or 3 ft. above natural ground level.

In certain situations, as described in Section III.A.6 above, the Construction Area and/or the Firewise Area may extend beyond the lot property line, as measured from the 'structure'. The Association will allow the removal of trees and/or pruning outside the property line, but within the Construction or Firewise Areas, when there is a written agreement between all affected

property owners. This agreement must be presented to the DRB for approval as part of any tree removal plan.

3. Removal of Vegetation During New Construction

DRB approval of the Final Design (Appendix 1, Step 4 in the design review process) will govern the tree removal at the commencement of construction. The Preliminary Landscape Plan will be required within 30 days after the lot is cleared, and must contain details of the tree replacement requirements, if applicable.

The Owner shall utilize a survey of the lot (which indicates all trees of 6" and greater diameter) to indicate the trees proposed for removal. If the survey of the lot is greater than two (2) year old, it must be revised to update tree sizes. Trees of 6" diameter and greater, outside of the construction area, and not subject to the Firewise allowances, must be tagged in accordance with Appendix 1, Step 5 (Pre-construction) in the Design Review process. Trees less than 6" diameter proposed for removal are generally not shown on the property survey but must be physically tagged with surveyor's tape for review by the DRB, prior to approval and removal. Trees that are not approved for removal, for which protection fencing is required, must also be tagged with surveyor's tape of contrasting color.

4. Removal of Vegetation to Create a View Window

Creation of a "view window" shall be considered when the house is completed to the point where "views" can be physically observed from the house, and after the Final Landscape plan has been approved.

Creating a "view window" requires consultation with an Arborist. The Arborist will provide guidance regarding the size and/or species of trees that may be considered to create the "view window", and the proposed treatment (removal or pruning) each is to receive. The Arborist will work within the resulting house exposure, considering the views of the house from within the community, from adjacent communities, and from the Town of Black Mountain.

Trees affecting the views from the house may be considered for removal or pruning **only** if they are within an angle no greater than 60 degrees, as measured from a single point on the house/deck closest to the "view". Removal of trees greater than six-inch (6") diameter outside of this 60 degree "view angle" is generally not allowed. Any proposal to remove trees > 10" should be carefully considered to retain desirable species or examples. Pruning can be a practical alternative to removal. The DRB may require the "view angle" to be altered to minimize the detriment to the natural forest.

Requests for creation of a view window shall follow the DRB approval process stated in Appendix 2, "Tree Removal/Pruning Request".

5. Pruning

Pruning can be a practical option to lift flammable limbs away from the forest floor, and to allow for views under the canopy as noted. Arborists are equipped to properly prune trees to prevent damage in the process.

Pruning below 15 feet above ground level is defined as maintenance and is not subject to DRB approval. Beyond the construction area, tree pruning more than 15 feet above ground level requires consultation with an Arborist and written approval from the DRB.

Requests for pruning 15 feet above ground level shall follow the DRB approval process stated in Appendix 2, "Tree Removal/Pruning Request".

6. Removal of Vegetation Not Covered in the any of the Guidance Above

The removal of vegetation not covered in sections 3, 4 and 5 above, but requiring DRB approval per the table, shall be advised to the DRB prior to removal.

This might include trees needing removal for required stormwater retention and erosion control arrangements, trees damaged by natural causes, trees posing a danger to the house or outbuildings, clearing of small trees (greater than 2" and less than 6") to promote growth of surrounding trees, etc.

Modification of mature landscaping of existing homes is required to be submitted to DRB for approval. This includes landscape trees, ornamental shrubs or other landscaping that was required at the time of construction. The DRB may require consultation with an arborist.

A request shall be submitted to the DRB at DRB@tsobm.com.

7. Replacement of Trees Approved for Removal

All plans for tree removal will require planting of new trees to replace those greater than 6" diameter removed with DRB approval. Removal of trees without DRB written approval require each replacement to be a minimum of 2" diameter for 50% of the cumulative diameter removed. Removal of trees for approved stormwater mitigation require a minimum of 2" diameter for 50% of the cumulative diameter removed. Removal of trees to allow view windows require a minimum of 2" diameter replacement trees for 25% of the cumulative diameter removed. Replacement trees shall be a minimum 1 1/2-inch diameter and comprised half of native canopy trees of similar species as are present on site, and half of native understory tree species. For new construction, the Final Landscaping Plan shall reflect the description and location of all replacement trees, indicating compliance with these requirements. For other situations after new construction, a Revised Landscaping Plan must be submitted to reflect the description and location of all replacement trees.

8. Disposal of all debris when removing vegetation

When removing or pruning vegetation as allowed in this section of the Guidelines, all trunks and branches must be disposed of outside of the community. The only exception is wood that is cut and stacked for firewood to be used in the residence.

Appendix 1

Application for Residential Improvements

Submit Complete Applications to
The Settings DRB,
Email- DRB@tsobm.com

DATE _____

OWNERS NAME _____

PROPERTY ADDRESS _____ LOT NUMBER _____

PHONE _____ EMAIL _____

Project (check all that apply):

- Fence/Enclosure Deck/Patio Landscape Improvement Play Equipment
 Satellite Dish Landscape Lighting Pool/Spa Exterior Paint color
 Roof Change Tree Removal Other (Please Describe)

Describe proposed exterior improvement below:

EXPECTED START DATE:

EXPECTED COMPLETION DATE:

THE FOLLOWING MUST BE SUBMITTED WITH THIS APPLICATION TO BE CONSIDERED COMPLETE:

- Official Lot Survey with sketched location of item or addition (if applicable)
 Written description and color photos of materials to be used
 Improvement specifications- measurements and dimensions- distances from property line and setback as applicable
 Color photo of area to be improved
 Construction/engineering plans as applicable

WRITTEN APPROVAL FROM THE DRB IS REQUIRED PRIOR TO BEGINNING ANY PROJECT.

THE DRB HAS 30 DAYS FROM RECEIPT TO RESPOND TO ANY REQUEST. THE PROCESS DOES NOT BEGIN UNTIL ALL REQUIRED INFORMATION IS RECEIVED BY THE DRB.

***NOTE:** APPROVAL BY THE DRB DOES NOT IN ANY WAY GUARANTEE APPROVALS BY THE TOWN, COUNTY, OR ANY OTHER SUCH AGENCIES, AND ALL SUCH APPROVALS OR PERMITS ARE THE RESPONSIBILITY OF THE APPLICANT. *IF YOUR COMMUNITY IS WITHIN A STREAM BUFFER AND THERE ARE ADDITIONAL RESTRICTIONS THAT APPLY, IT IS ENTIRELY THE OWNERS RESPONSIBILITY. THE ASSOCIATION HAS NO RESPONSIBILITY OR LIABILITY FOR GOVERNMENT REQUIREMENTS.*

The owner and builder acknowledge they have read the above information, Residential Improvement Guidelines, and

the Association CC&Rs and DRB Guidelines, and agree to abide by the terms and conditions therein.

Owner _____ Date _____
DRB Approval _____ Date _____
Board Approval _____ Date _____

Appendix 2

Tree Removal/Pruning Request

Trees and other vegetation may be removed or pruned in accordance with Section III.D of the Design Review Guidelines and Standards.

The Owner is required to follow this process to request review and approval by the DRB for removal or pruning of any tree that requires the consultation of an Arborist, per the table in Section III.D.2.

STEP 1:

The Arborist shall prepare a “Tree Removal and Pruning Plan” that adheres to requirements prescribed in Section III.D.4 of the Guidelines and to the requirements for tree replacement prescribed in Section III.D.6 of the Guidelines. This plan shall clearly describe the “view window” as a markup on the lot survey, indicating the maximum 60-degree angle in which the trees are proposed to be removed or pruned. A photo shall be taken from the vantage point where the view is desired and shall be edited to mark the trees to be removed or pruned.

In the case where pruning only is proposed, and it is not in association with the “view window”, but is 15 feet above ground level, the Owner and Arborist shall similarly follow this DRB approval process.

The Plan shall be submitted to the DRB at DRB@tsobm.com.

STEP 2:

The DRB and the Arborist will meet at the Owner’s property to review the proposed plan.

The DRB will review the proposed tree removal/pruning plan after the site visit and respond to the Owner within five (5) business days. The Plan will be accepted, comments advised, or a revised plan (if applicable) will be requested.

STEP 3:

The Owner will submit a landscape plan with specifics of the replacement trees (species, size, and location).

- The cumulative diameter of the replacement trees shall equal at least 25% of the cumulative diameter of the trees removed outside the “construction area”.
- Trees that are pruned in accordance the Arborist’s approved plan do not require replacement.
- A site visit by the DRB may be needed.

STEP 4:

Once the DRB has approved the final plan, the tree removal/pruning may commence. Tree removal may be performed by a contractor of the Owner’s choice, but any pruning must be performed by an Arborist.

Replacement trees must be planted within three months of all those removed. Failure to replace trees as agreed will result in fines as noted in Appendix 3 of the DRB Guidelines. Moreover, the Association reserves the right to replace the trees per this agreement and take action to recover those costs.

Once all pruning and removal are complete AND the planting of replacements is complete, the DRB must inspect the work to ensure it satisfies the agreement. The DRB shall provide written notification the Owner that the work is complete.

STEP 5:

Final written notice of completion will be given to the Owner by the DRB once all the provisions of this Appendix are met.

Appendix 3

Firewise Guide to Construction

<https://www.tsobm.com/wp-content/uploads/2019/04/Firewise-Guide-to-Construction.pdf>

Appendix 4

Firewise Construction Checklist

<https://www.tsobm.com/wp-content/uploads/2019/04/Construction-Checklist.pdf>

Appendix 5

Firewise Landscaping Checklist

<https://www.tsobm.com/wp-content/uploads/2019/04/Firewise-Landscaping-Checklist.pdf>

Appendix 6

Firewise Landscaping in North Carolina

<https://www.tsobm.com/wp-content/uploads/2019/04/Firewise-Landscaping-in-NC.pdf>

Documents are provided with the approval of the National Fire Plan through the U.S. Department of Agriculture – U.S. Forest Service and the North Carolina State University Cooperative Extension, as funded by the U.S. Department of Agriculture – U.S. Forest Service