

THE SETTINGS OF BLACK MOUNTAIN

Architectural Design Standards and Construction Guidelines



PREFACE

This revision of the Architectural Standards and Construction Guidelines (Guidelines) is effective for all Design Review Applications, Applications for Residential Improvements, and Tree Removal and Replacement Requests, as approved the Board of Directors of The Settings of Black Mountain Association effective on October 1, 2020.

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

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, and
4. managing limited improvements to undeveloped lots

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.

The processes in this document are requirements to build a home in this community. The steps are briefly outlined below and are described in great detail throughout the document.

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	Owner, Designer, Builder
	DRB communicates site concerns, if any	DRB
3 Preliminary Design	Submit: 1) preliminary design review fee 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	Owner, 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 within 30 days after clearing	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

Questions related to any interpretations, contradictions or omissions should be brought to the attention of the Association Management Company, FirstServices Residential (FSR), at settingsofblackmountain.drb@fsresidential.com , and to 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.

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. Within the parameters of the mountain architecture style, the individual homeowner has the opportunity for creative use of design and materials.

What is Mountain Architecture? 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.

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. Elements of Western ranch/rustic, Adirondack, Craftsman, Arts & Crafts, Prairie, Japanese, Farmhouse, Modern, and even Tuscan can be incorporated into the mountain style if done tastefully. 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.

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 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, 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 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 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 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. The eight steps 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	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 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	Owner, Builder	Owner/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
	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
	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 within 30 days after clearing	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
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Appendix 1 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 this *entire* "Architectural Design Standards and Construction Guidelines" document carefully, including Appendix 1, 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 Appendix 1 for contact information.

E. Association rights to administer Design Standards and 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 130-137
 - Lots 179-209
 - 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 69-87
 - 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. The Association and the Town continue communications with the goal to formalize an agreement.

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.

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 should be less 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 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 (tsohm.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. 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.

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 8 and 9 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

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. Rough-textured stucco may be used only on exterior walls below a reference point where the finished grade intersects the side of the house facing the street. 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 5-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.

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 and shall be painted or stained. Plywood is not permitted.

7. Entry Features

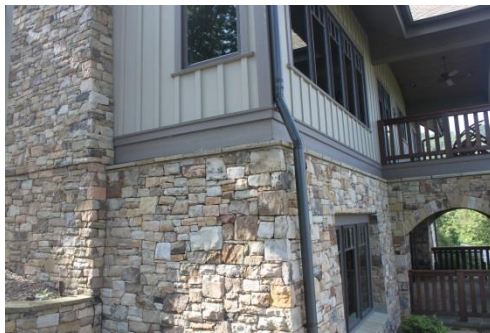
Covered porches are recommended and encouraged. If space requirements are limiting factors, the front entry of the primary structure must have at least a covered stoop in proportion to the overall front elevation. See Section 10 for specific requirements for porches and decks. If a secondary door is 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 at least 5-1/2" wide inch head trim. Transoms above minimum head height of windows and doors are permitted.

Double or single-hung windows must have grid patterns ranging from 2-over-1 to 9-over-9 panes. Casement or awning windows or fixed picture windows shall be divided into a minimum of at least 2 panes each, and up to 9 panes each. Window types and grid patterns must be consistent among all windows and exterior doors, including patio doors and garage doors.



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 separated 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 cladding on the exterior of windows is 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 on site from individual window units, not manufactured “bay window” assemblies. The foundation on bay windows or other “bump outs” shall extend to the ground on all sides if located on ground floor; alternatively, architectural support brackets may be used as approved by the DRB.

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

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

The porch design and placement are integral parts of the house design and must reflect the architectural style. Front and side porches shall be completely covered. Front and side porches shall be a minimum of eight feet (8') in depth.

Screened or glazed (glass) porches must be located on the rear or side elevation of the house only. Screened porches on side of house must be recessed a minimum of 4 feet behind the front elevation of the house, defined as the corner at the side of the house where the porch is to be located. If a house is situated on a lot facing two or more streets, e.g. front and side, front and back, or front and multiple sides and back, the screened porches require specific DRB approval. Screened porches must have screen systems trimmed in wood and installed outside the porch railings.

Balconies, as architecturally appropriate and with DRB approval, may be utilized on floors above grade level when accessible from an interior room. 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.

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 front door of the house faces away from the street, the DRB may consider double-stacked, covered porches on the street side of house. Guidelines for materials, colors, and finish details remain the same for all porches on all elevations.

Uncovered decks must be located on the rear of the house only, within the house side lines. 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.

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 any 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 metal 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 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 black asphalt, 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 front 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. 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. 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 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 holdbacks, 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 down spouts, French drains, gravel pads, and underground lines to route and control water run off with discharge points specified. Splash blocks are not allowed.

3. Outbuildings

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.

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 is to 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 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.

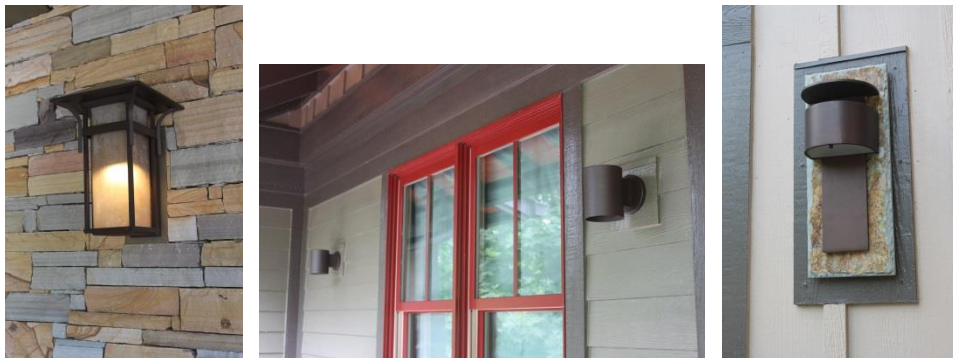
As a general guideline, lighting should:

- 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.

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.



“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 prohibited, except in areas where security is warranted, as determined and approved by the DRB. These security lights must be motion-activated and turn off automatically within a reasonable amount of time.

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. 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 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 housed and screened from view and approved by the DRB.

9. Solar Energy Systems

Solar energy systems present a sustainable alternative to conventional energy technologies, with the potential to provide homeowners with a significant portion of their energy needs while safeguarding human health and environmental quality.

While the Association recognizes these benefits, it is important that these systems are installed in a manner that respects legitimate competing community interests. For purposes of these design guidelines, the phrase “solar energy system” includes both photovoltaic and solar heating and/or cooling technologies.

All solar energy systems require DRB approval. The following documents must be included along with the initial application or modification request form:

- Plans showing visibility of the system from community areas open to common access (e.g., streets, sidewalks, trails, and Association common areas); visibility from adjacent houses will also be considered by the DRB.
- A drawing (with dimensions) showing the proposed location of the system and how the equipment will be mounted, as well as a description of any visible auxiliary equipment, and;
- Photographs or manufacturer literature for all proposed system components including specifications, color, materials, etc.

Following submission of these materials, the DRB will approve, request additional materials, recommend changes, or deny the system design and location as proposed or, if feasible, determine an alternate location for the system.

To the maximum extent possible, a roof-mounted solar energy system shall be installed so as to minimize its exposure when viewed from areas open to common access (e.g., streets, adjoining lots, and association properties or common areas). Roof-mounted systems shall not be mounted on surfaces facing any street. Roof-mounted systems may be mounted on surfaces facing the side or back of the lot, within the provision of not facing streets in the case where houses face more than one street in front. Solar panels on side-facing roof surfaces visible from areas open to common or public access must be mounted in the plane of the roof surface minimizing stand-off distance from roof. Panels in other locations may be angled to achieve optimum solar gain provided the top edge of the panel does not extend above the lowest roof peak. All panels must be located entirely within a boundary defined by the roof eaves and peak. Visibility of the underside of the panels shall be minimized from areas open to common access.

Lots facing more than one street or abutting to common areas may not be suitable for the use of solar energy systems, as solely determined by the DRB.

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 ground covers 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 are not to be altered, except for removal of dead trees and shrubs. 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.
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

1. 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. Materials should follow the guidelines for exterior materials and colors. The use of segmental block walls that simulate stone, i.e. Heritage Block, will be considered for retaining walls.

2. Fire Pits

Outdoor fire pits 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 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.

The Firewise team makes group purchases of the Settings reflective house number signs twice/year. Homeowners will be notified when there is going to be a group purchase and given instructions on how to add their name to the purchase, if desired.

C. Recommended landscaping species native to Western North Carolina

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

Also see Appendix 11 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.

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, storm water 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	Per approved Landscape Plan
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 4.5 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 one (1) 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 7, “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 7, “Tree Removal/Pruning Request”.

6. Removal of Vegetation Not Covered in 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.

A request shall be submitted to the DRB through the Association Management Company, FirstServices Residential (FSR) at settingsofblackmountain.drb@fsresidential.com. The request should also be copied to the Design Review Board 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. The cumulative diameter of the replacement trees shall equal at least 25% of the cumulative diameter of the removed trees. For example, if two 10-inch trees are removed, they must be replaced on the property by trees whose cumulative diameter equals at least 5 inches (2 x 10 inches x 0.25). Replacement trees shall be a minimum 1-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

Process for Designing and Building a House in The Settings of Black Mountain

The purpose of this Appendix is to guide the Owner in the step-by-step process of designing and constructing a house in The Settings.

The process is a series of eight steps that are summarized in the table on the next page. Time is critical to the owner and builder. Approximate time frames are noted for the DRB to take action at each step. For the time frames that are expressed as business days, please note that business days do not include weekend days, most major holidays, the week of Thanksgiving Day, the week of Christmas Day, and the week of New Year's Day.

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	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 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	Owner, Builder	Owner/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
	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
	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 within 30 days after clearing	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
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STEP 1 – VISION

OWNER REVIEW OF CONTROL DOCUMENTS, SITE DOCUMENTS AND SELECTION OF DESIGN/CONSTRUCTION TEAM

Owners must notify the Association and the DRB of their intent to begin the design process. This allows the DRB to plan resources accordingly. The Association should be advised through the Management Company FSR (settingsofblackmountain.drb@fsresidential.com). The DRB can be contacted at DRB@tsobm.com.

The Owner should begin selection of their professional team: a licensed architect or designer, and if desired at this step, a NC licensed (and The Settings Approved) builder and a landscape architect or designer. If not utilizing the services of a NC licensed architect, a NC licensed landscape architect **must** be used to develop the site plan. It is not required to select a builder at this step; however, the builder must be selected by Step 4 when the Final Design and Construction Documents are submitted.

It is the responsibility of the owner to acquaint their consultants with the Design Review Board (DRB) Architectural Design Standards and Construction Guidelines, and the Design Review Process.

It is highly recommended the property owner utilize professionals who understand the risks associated with building homes in the mountains, and who have relevant experience. Lots may contain underground springs, underlying rock formations, streams and soil instability hazards, to name a few.

Before commencing any detailed design, the owner and their architect or designer should review the following documents for specific constraints and/or requirements:

1. Recorded Plat of the Subdivision and the subject lot to determine any lot specific restrictions and/or easements
2. Topographic, Boundary & Tree Survey for subject lot (see details below)
3. Declaration of Covenants, Conditions and Restrictions (CC&R's), including Amendments as recorded, and the By-Laws of the Association
[\[https://www.tsobm.com/wp-content/uploads/2019/01/CCR-Docs-Combined.pdf?x36566\]](https://www.tsobm.com/wp-content/uploads/2019/01/CCR-Docs-Combined.pdf?x36566)
4. The Design Standards and Construction Guidelines described in the body of this document
5. The Design Review Application and related forms in Appendix 2
6. ALL applicable Town, County and State Building Codes/Restrictions, Fees and/or submission requirements for The Settings of Black Mountain
7. If the Owner is considering building a home on merged lots, they should refer to the HOA Policy, "*Process for the Construction of a Residence on Merged Lots in The Settings of Black Mountain.*" and complete the "*Application Form for DRB Approval to Design and Build on Two Merged Lots*".

The topographic survey along with a tree survey of the house site should be prepared so that the owner, architect/designer, landscape architect/ designer and builder (if applicable at this step) can make a proper site evaluation in accordance with the site planning guidelines that are listed below. The topographic survey shall:

- verify the corner pins of the property
- note any water boundaries, springs, creeks or streams on the site
- provide graduated contours at two-foot elevation intervals
- indicate spot elevations of any distinctive features such as mounds
- locate utilities where they protrude above the ground
- show the location and species of all trees 6 inches in diameter and greater, (measured as diameter at breast height (4'-6") above grade)
- note the location and identification of any special features of the house site
- show building setback requirements, easements and any restrictions per the recorded plat(s), Town zoning regulations, and these DRB Guidelines.
- The information included on the survey, at least with respect to tree sizes, must be less than one (1) year old when presented to the DRB for the next step (Planning).

STEP 2 – PLANNING

INITIAL SITE EVALUATION & CONCEPT DESIGN MEETING WITH DRB

The design team, along with the approved builder (if applicable) and the DRB shall visit the house site for an onsite visit prior to commencing the Preliminary Design work. This allows the designer to creatively design the dwelling in a compatible site-specific manner taking the overall goals of The Settings Design Style/Philosophy into consideration. Please contact the Management Company to arrange this meeting:

FirstServices Residential (FSR)
settingsofblackmountain.drb@fsresidential.com

At the time of the on-site meeting with a DRB member(s), the owner (or their agent), the architect and the builder (if applicable) will note and discuss any site related issues. Discussions of possible building sites, easements or site restrictions, natural drainage requirements and/or existing streams will be addressed. Also, site clearing concerns and plans will be addressed as they relate to natural vegetation or its alteration due to grading, stormwater retention, and other factors that determine the extent of tree removal.

The Settings strives to have houses in the community blend into the natural environment. We encourage the design team to look at other houses in the community for good examples of how to do this. Maximum consideration should be given to the house design's relationship to the

site features such as views, as well as the proposed house's impact on the natural qualities of the house site. House concepts may not be approved if they substantially damage the natural qualities of a lot; consequently, a house that may be acceptable for some house sites might not be acceptable for other house sites.

The design team shall submit the following conceptual details to the DRB at least 10 days prior to the concept site visit.

- The topographic survey with details as noted in Step 1 above.
- The topographic survey, or portion thereof, with the proposed location of the house, any detached structures, and driveways.
- Locations of any retaining walls, both attached to the structures, or otherwise located on the lot.
- Anticipated grading beyond construction clearing areas
- Anticipated stormwater retention areas

No commitments or approvals will be granted from the DRB at this early onsite meeting, but the DRB will respond within 10 working days after the site visit to communicate any concerns with respect to site related issues, as noted above.

STEP 3 – PRELIMINARY DESIGN

DRB REVIEW OF PRELIMINARY DESIGN PACKAGE

The Owner must submit a Preliminary Design Package containing the design fee, forms, and design & site plans listed in the "Preliminary Design Submission Requirements" noted below. The Preliminary Design Package review will facilitate an efficient preparation of final construction/working drawings to meet the standards and guidelines. The Association contracts with Registered Architects to undertake both the Preliminary and Final Design reviews on behalf of the DRB. The reviewing architect will compare the proposed design with the standards and guidelines noted herein. **Any variances to the design standards and guidelines must be noted in the Preliminary Design Package submitted by the Owner. Failure to do so may delay the time frame for the DRB approval.**

No variance shall be effective unless granted in writing. See the CC&Rs, Section 9.10, for other guidance related to variances, the DRB's authority, and the terms of such. **Variances require approval from the DRB and the Association Board of Directors.** Identifying variances early in the project will reduce the possibility of rejection later in the process. Examples of major variances might include unusual/alternative choices of materials, porches and decks, reduction of setbacks, windows, etc. The above list is not all-inclusive. It is important for owners to contact the DRB in the beginning steps and maintain communication throughout the design steps, especially if uncertainties arise.

Preliminary Design Submission Requirements:

1) Design Review Fee

\$2250 check (non-refundable), payable to The Settings of Black Mountain Association, Inc., and delivered to the Management Company at the address noted on the Design Review Application (Appendix 2). Indicate the owner name, street address, and lot number on the check.

2) Forms

- Design Review Application (Appendix 2)
- Owner/Builder Affidavit (Appendix 3)

Note: If a Builder has not been selected yet, the Owner should execute the Affidavit at this time. When the Builder is selected, they must execute the Affidavit.

3) Preliminary Design & Site Plans, to include the following:

- Site Plan at either 1" = 20' or 1" = 10' scale. Setbacks, easements, driveways, and building locations must be clearly shown. Areas of anticipated disturbance outside the construction perimeter, such as grading and stormwater retention facilities, must be shown.
- Floor plans at either 1/8" = 1' or 1/4" = 1' scale. Major spaces are to be labeled and dimensions noted. The floor elevation for the main level, and all ceiling heights must be identified.
- All elevations illustrated with the initial and proposed final grades, at either 1/8" = 1' or 1/4" = 1' scale.
- Overall building height must be clearly shown.
- All proposed exterior materials must be noted and clearly delineated.
- Window types and grille patterns must be clearly shown.
- All roof pitches must be indicated.
- Square footage for all heated and unheated/unfinished areas must be noted for each level.
- Access to street, driveways, parking area, sidewalks, paths, decks, and patios with elevations indicated.
- Each drawing or document submitted with design review packages must include: Title Block with Drawing Number, Revision Number, Revision Date, and all revisions identified compared to prior revisions. Electronic files should be named with the project (owner name), drawing number, and revision number. Forms and drawings must be delivered as electronic files in PDF format.

Approximately twenty (25) business days should be allowed for the Preliminary Review Process after receipt by the Management Company of all items listed above. When the preliminary review is complete, any comments, suggestions and recommended changes will be provided to the Owner to allow the design team to prepare Final Design documents accordingly.

The DRB review time is an indication of the window required to work with the reviewing architect under normal conditions and is based on a best effort basis and not a firm commitment. Additional time may be required for ongoing workloads, the need for additional information, or other time constraints. A preliminary review response does not constitute any final approval on behalf of the DRB or Board of Directors.

The Preliminary Design Package must be approved in writing before proceeding to Step Four.

STEP 4 – FINAL DESIGN

DRB REVIEW AND APPROVAL OF FINAL DESIGN AND CONSTRUCTION DOCUMENTS

The Owner must have selected a Builder at this step, if not prior.

Final Design Construction Drawings and Preliminary Landscaping Plan are to be submitted in accordance with the preliminary design review comments. As with the preliminary design submittal and review, variances must be noted in the final design submittal. Non-disclosure of variances and/or significant deviation of the final design from the approved preliminary design may cause the DRB to re-evaluate the design and review further. Major revisions to the size, appearance and features of the house are examples where additional effort may be required. Depending on the extent of the revisions, additional review time may be required by the reviewing architect. **Additional design review fees may be assessed in extreme cases, at the discretion of the DRB.**

Twenty (25) business days should be allowed for the DRB Final Review Process after receipt by the DRB of all Final Construction Documents. **All Final Plan submittals MUST be presented to the DRB by the Owner or their agent.**

Final Design Submission Requirements:

Each drawing or document submitted with design review packages must include: Title Block with Drawing Number, Revision Number, and Revision Date.

All changes must be identified compared to prior revisions. Electronic files should be named with the project (owner name), drawing number, and revision number.

1. Floor plans at either 1/8" = 1' or: 1/4" = 1' scale. Major spaces and dimensions must be noted. Floor elevations are to be noted.
2. All four elevations (front, rear, both sides) at either 1/8" = 1' or 1/4" = 1' scale. All proposed exterior materials must be noted and clearly delineated.
3. Revisions to materials, colors and specifications as submitted with the preliminary

design should be noted in an updated Design Review Application and on the drawings as applicable.

4. Site plan at either 1" = 20' or 1" = 10' scale. Scale to be noted. This site plan is to include the following information:
 - Setbacks, easements, driveways and building locations must be clearly shown
 - Locations and species of all trees 6" and greater in diameter (Diameter means "diameter at breast height", as measured at 4-1/2 feet above grade). The locations of the drip line of all trees 12" or greater diameter shall be shown.
 - Access to street, drives, parking area, sidewalks/paths, decks and patios with elevations indicated.
 - Entry to house sites for water, electric, cable TV, telephones and AC unit locations shown on plan.
 - Building accurately located from property and setback lines as required.
 - Dwelling to be indicated as exterior walls with entry area and stairs delineated. Roof and deck lines are to be shown.
 - Total impervious surface coverage.
 - Inset drawing with structures and water bodies or other natural feature(s) noted. Principal view shall also be indicated with directions.
 - Placement of construction debris bin, portable toilet, construction vehicle parking
5. If any information in the Design Review Application has changed since submitted in Step 2, a revised Application must be resubmitted indicating the updates
6. If any information in the Owner/Builder Affidavit has changed since submitted in Step 2, or if the Builder has not been selected until this step, the Affidavit must be resubmitted and signed by all parties.
7. Excavation, clearing and grading plan showing existing and proposed contours, culvert locations, sized pipes, inverts and flow directions, drainage, and any retaining walls or berm locations and proposed heights and material usage.
8. Tree removal plan. This plan should identify all trees to be removed within the construction area. The construction area, as defined within these Guidelines, must be shown on the plan. If trees outside of the construction area are proposed for removal, additional approval is required per Section III.D. If trees are removed without approval, the DRB may, at its discretion, require replacement of trees and/or impose fines.
9. Erosion and Drainage Control Plan, including any plans required by the Town of Black Mountain or Buncombe County

When the Final Design review is completed and approved, written confirmation will be sent to the owner, builder and architect/designer as applicable. **This approval is valid for 180 days from the date of written approval.**

Written approval of the Final Design must be obtained before moving to the next step.

STEP 5 – PRE-CONSTRUCTION

HOUSE SITE STAKING, TREE MARKING, AND DRB APPROVAL TO BEGIN CONSTRUCTION

Before any action is taken by the DRB in this step, the following fees must be remitted to the Management Company. All fees should be made by check payable to The Settings of Black Mountain Association, Inc., and delivered to the Management Company at the address noted on the Design Review Application (Appendix 2). Indicate the owner name, street address, and lot number on all checks:

- Construction Compliance Deposit (refundable upon Final Project Closeout):
\$1250 from Property Owner and \$1250 from Builder
- Road Impact Usage Fee (non-refundable) from Property Owner or Builder:
\$600 for projects completed in less than 12 months from the date of written approval to proceed with clearing. The end of the project is defined as the date closeout approval is received by the Owner from the DRB. Projects taking longer than 12 months will incur additional Road Impact Usage Fees of \$50 per month or part thereof, to be paid upon invoice from the Association Management Company. Monies received as Road Impact Usage Fees will be added to the Association Long Range Reserve Fund

The builder is to notify the DRB once the house construction clearing areas are staked on the house site, according to the final site plan approval. All trees approved for removal must be clearly marked. Staking and marking should be done within 30 days prior to the inspection. Longer time frames between staking and clearing may require the process to be redone if the stakes and markings are compromised.

Property lines and clearing limits are to be staked. Trees that have been approved for removal are to be flagged with orange surveyor's tape. For trees not being removed, where there are tree canopies that extend into the Construction Area (15 feet beyond the primary structure), the trees are to be flagged with contrasting color of surveyor's tape and delineated with the installation of tree protection fencing situated at the drip lines. Any areas outside of the construction area (and within protection fences where required) must be avoided for construction access, equipment staging, or any activity that disturbs the trees and vegetation outside the clearing limits.

Additional clearing may be required to remove dead trees, or for consideration of Firewise Guidelines for tree canopy clearance as it relates to the structure. A written request is still required to remove **any** trees 2" and greater diameter beyond the 15 ft. Construction Area, regardless of reason. See Section III.D. of this document for tree removal guidelines.

The DRB will review the staking and tree marking and must provide written approval before any clearing can begin on the site. Approximately five (5) business days, depending

on weather, should be allowed from the time the DRB is notified the staking is ready to inspect, until written response and/or approval is granted.

After the lot is cleared and all erosion protection measures have been installed, the DRB should be notified so the site can be inspected. The DRB must be given 5 days written notice to undertake this inspection. After the inspection, the DRB will respond within 5 business days with written approval to commence Step 6.

Written approval to commence house construction must be obtained before moving to the Step 6.

STEP 6 – HOUSE CONSTRUCTION

PERIODIC INSPECTIONS BY DRB, AND DRB REVIEW AND APPROVAL OF PRELIMINARY LANDSCAPE PLAN

The DRB reserves the right of entry and inspection of a home site during the construction process for the purpose of verifying compliance with the Building Guidelines and Architectural Standards.

Construction is expected to proceed without significant periods of inactivity. The Builder must provide the DRB with an approximate schedule for the project.

Periodic inspections will be performed by the DRB at certain points in the construction phase. These will occur at the time of lot clearing and initial grading, at the time the foundation is poured, after the posting of all exterior materials and colors on a sample board, and at any time a complaint is registered with the Association regarding potential violations.

These inspections may be done without notice to the owner/builder. The owner, their builder and architect, if applicable, will be notified in writing of any items of exception or non-compliance. All items must be remedied within 14 days (weather permitting). A follow-up inspection and sign off will be performed by a DRB representative.

The Preliminary Landscape Plan is required no later than 30 days after clearing. This plan can be basic, showing general areas for elements such as mass plantings (shrubs, ground cover, grass, natural areas, etc.), trees, screening of utilities, walkways, retaining walls, water features, fire pits, and other hardscapes. If any of the trees that were removed during clearing require replacement, the plan must contain details of the tree replacement requirements. The Final Landscape Plan with greater detail is required in Step 7.

STEP 7 – LANDSCAPE

DRB APPROVAL OF FINAL LANDSCAPE PLAN

A Final Landscape Plan must be submitted to the DRB no less than 150 calendar days prior to proposed completion or receipt of a Certificate of Occupancy (CO), whichever is earlier. A Final Landscape Plan, including a schedule of completion, must be approved by the DRB prior to the plan installation. A written response will be provided by the DRB to the builder and/or landscaper (as applicable) and to the Owner within 10 business days of receipt of the landscape plan.

Final landscaping per the approved plan must be completed within 180 days after receipt of the Certificate of Occupancy.

STEP 8 – PROJECT CLOSEOUT

FINAL DRB INSPECTION

The owner/builder shall notify the Management Company **when construction (including final landscaping) is substantially complete** and ready to be inspected. Notification should be a minimum of five (5) business days prior to the requested date of the inspection to allow scheduling of a DRB representative.

The Final Inspection Checklist is in Appendix 6.

Written notification will be provided by the DRB to the Owner regarding any deficiencies that must be remedied prior to final approval. Upon satisfactory completion of all items in the Checklist, a written Final Inspection Approval will be issued by the DRB.

The Construction Compliance Deposit less any unpaid non-compliance fines will be approved for refunding to the owner within ten (10) business days after the issuance of the approval letter.

Appendix 2

DESIGN REVIEW APPLICATION (General Instructions)

Send Completed Documents electronically to the DRB through the Association Management Company, FirstServices Residential (FSR) at settingsofblackmountain.drb@fsresidential.com. **Electronic submittals should also be copied to the Design Review Board** at DRB@tsobm.com.

If electronic submittal is not possible, send seven (7) hard copies of all material to the Association Management Company.

Please mail the Design Review Fees to:

The Settings of Black Mountain Association, Inc.
c/o FirstServices Residential
5970 Fairview Road, Suite 710
Charlotte NC 28210

*Make check payable to The Settings of Black Mountain Association, Inc.

*Note the check is for DRB design review, along with Owner Name, Lot Number and Street Address on check

Checklist for Preliminary Design Review Submittal

In accordance with the Design Review Guidance provided in this document, the following checklists are to be used in the Application Submittal.

Preliminary Submission Requirements:

- Site Plan at either 1" = 20' or 1" = 10' scale. Setbacks, easements, driveways, and building locations must be clearly shown. Areas of anticipated disturbance outside the construction perimeter, such as grading and stormwater retention facilities, must be shown.
- Floor plan at either 1/8" = 1' or 1/4" = 1' scale. Major spaces labeled and dimensions must be noted. Finished floor elevations must be identified.
- All elevations illustrated with existing and proposed grades at either 1/8" = 1' or 1/4" = 1' scale.
- All proposed exterior materials must be noted and clearly delineated.
- Window types and grille patterns must be clearly shown.
- All roof pitches must be indicated.
- Square footage totals for heated and unheated/unfinished areas for each level must also be indicated
- Access to street, driveways, parking area, sidewalks, paths, decks, and patios with elevations indicated.
- List of major variances to standards. Examples of major variances might include unusual choices of materials, porches and decks, reduction of setbacks, windows (lack of, inconsistent style, and/or grids), etc. The above list is not all-inclusive.
- Non-refundable \$2250.00 Design Review Fee made payable to The Settings of Black Mountain Association, Inc., delivered to the address noted. Please note the Construction Compliance Deposit and Road Use Fee are not due until the Design is approved.
- Property Owner/Builder Affidavit (Appendix 3).

THE SETTINGS OF BLACK MOUNTAIN DESIGN REVIEW APPLICATION

Please complete all line items or indicate they are not applicable

A. Property Information

Date:

Owner Name:

Owner Current Address:

Owner Phone Number(s):

Owner e-mail address(es):

Property Address (Lot number and street address):

Builder Name:

Builder Address:

Builder Contact/Supervisor:

Contact Phone Number:

Contact E-Mail:

Architect/Designer Name:

Architect Address:

Architect Phone Number:

Architect E-Mail:

Landscape Architect/Designer Name:

Landscape Architect Address:

Landscape Architect Phone Number:

Landscape Architect E-Mail:

B. SITE SPECIFIC SPECIFICATIONS

1. Minimum required setbacks (as platted or as currently required by ordinance, whichever is greater):

Front:

Rear:

Left side (as viewed from street):

Right side (as viewed from street):

Stream setback requirements? Y / N

Corner lot requirements? Y / N

Lot with frontage on two streets? Y / N

Steep Slope requirements? Y / N If lot is a steep slope, is a setback variance requested?

2. Style (Type) of House

Number of Stories:

Garage (attached or detached):

Basement (finished or unfinished)

Number of bedrooms:

Number of baths (full/half):

3. Conditioned square footage to comply with minimums specified for lot type:

Main floor conditioned footage:

Lower floor conditioned footage:

Second floor conditioned footage:

Total conditioned footage:

Unfinished (unconditioned) footage:

Decks (number and total square footage):

Front porch (depth and square footage):

Garage (number of cars and square footage)"

4. Height from average foundation finished grade to highest roof ridge:

5. **All variances to guidelines and a written justification are to be noted here for consideration:**

C. COLORS/MATERIALS/FINISH SPECIFICATIONS

Please fill in all the blanks and attach samples where required:

* Display of these items on a Sample Board and DRB written Approval is required prior to installation

ROOF/TYPE*

Manufacturer/Type/Warranty _____

Color _____

EXTERIOR WALL MATERIALS*

Material Type(s) _____

Specific Locations _____

Finish _____

Color(s) _____ LRV(s) (if painted) _____

FASCIA/SOFFIT*

Specifications _____

Finish _____

Color(s) _____ LRV(s) (if painted) _____

TRIM/ACCENT/DETAILING*

Specifications _____

Finish _____

Color(s) _____ LRV(s) (if painted) _____

FRONT DOOR

Manufacturer _____

Material _____

Color _____ LRV (if painted) _____

GARAGE DOOR (Carriage Style Only)

Manufacturer _____

Style Detailing _____

Color _____

LRV (if painted) _____

WINDOWS*

Manufacturer _____

Frame Color _____

Style _____

LRV _____

SHUTTERS*

Manufacturer _____

Material _____

Color _____

LRV(s) (if painted) _____

DECKS/PORCHES & ASSOCIATED RAILINGS*

Specifications _____

Materials _____

Type _____

Finish/Color/Stain _____

DRIVEWAY*

Materials _____

Finish _____

Color _____

WALKWAYS*

Materials _____

Finish _____

Color _____

EXTERIOR LIGHTING (to be shown on site plan, elevations and floor plans)

Location _____

Type of Lighting _____

Dark Sky Compliant _____

RETAINING WALLS (must be shown on site plans)

Location _____

Materials _____ Color _____

LOT/GARAGE SPECIFICS

GARAGE: (Check all that apply)

- Side Loading
- Courtyard Entry
- Rear Loading
- Front Entry (Requires DRB Approval – Site Specific)
- Detached Garage
- Basement or Lower Level Garage

LOT: (Check all that apply)

- Cottage Lot
- Park Setting Lot
- Estate Lot
- Grand Estate Lot
- Corner Lot Bordering Multiple Streets
- Creeks or Streams on Lot

Appendix 3

Property Owner/Builder Affidavit

The Settings of Black Mountain is a residential community. All persons coming into the community shall do so with the understanding that the residents, wildlife, vegetation and environment are to be respected. The rules presented below are to be followed without exception. The members of the Association expect Owners and Builders to convey these rules to all persons engaged in the construction of the house and any other activities associated with that construction. If a Landscaper is contracted for services outside of the Builder's responsibility, the Landscaper shall also be held accountable for the requirements of this Affidavit to the same standards as the Owner and Builder and must execute this document.

Owner/Builder Affidavit

1. The Builder may not commence any construction until all of the requirements in Steps 1-5 of Appendix 1 of the Design Standards and Construction Guidelines are completed and approved by the DRB, and all required building permits are obtained. Written authority must be received by the Builder from the DRB before any activity takes place on any lot.
2. Before grading begins, the Builder will install silt fencing around the entire building envelope according to the approved erosion control plan. The Builder must protect the roots of any trees whose drip line extends into the construction area. The Builder will install protective fencing to the drip line at the tips of the branches. Special care must be exercised to prevent vehicles, equipment and personnel encroaching on tree protection areas and easement areas.
3. **Construction hours are from 7 AM to 6 PM Monday through Friday, and from 9 AM to 4 PM on Saturday. No construction is permitted on Sunday.** The Builder shall post a placard in a visible location on the site indicating working hours. No construction is allowed on the following holidays: Christmas Day, Thanksgiving Day, New Year's Day, Memorial Day, Fourth of July, and Labor Day. If the holiday falls on a weekend, and there is an associated federal or bank "in-lieu" holiday on another day, work is not permitted on the actual weekend holiday, but is permitted on the in-lieu holiday. For example, if the Fourth of July falls on a Saturday and federal offices and banks are closed on Friday the third of July in observance of the holiday, work would be permitted on July 3, but not on July 4. Any builder or subcontractors deviating from the allowed construction times will be warned on the first occurrence, fined on the second occurrence, and subject to additional fines and stoppage of work on the third and any subsequent occurrences.
4. All Builders will provide a 24-hour Emergency Phone Number to be kept on file with the DRB and Management Company. A list of all subcontractors is to be provided by the Builder to the Management Company prior to commencing construction on the job site.
5. All Builders will follow the gate access procedures detailed in Appendix 4 of the Design Standards and Construction Guidelines, which requires the names of all subcontractors allowed on site.

6. All job sites must be kept in a clean and orderly condition.
7. A single sign identifying the builder, architect and/or owner may be installed upon approval by the DRB. No sign shall be installed prior to final DRB approval to commence construction "Step 5 in Appendix 1 of the Design Standards and Construction Guidelines". The sign must face the street, be installed no closer than 10 feet from the curb and shall remain properly maintained by the Builder throughout the construction process. No subcontractor signs are allowed. For Sale/For Rent signs placed by the Builder must conform to the requirements of the Association CC&Rs.
8. Construction debris bins (dumpsters) are required on all job sites. Bins are to be located on the construction project lot and are not to be placed on adjacent lots, streets or common property. Tarp covers shall be secured on debris bins upon leaving job site at the end of each work day. This is required to prevent scattering of debris around the house site and to discourage others from using the Builder's bins. Debris bins shall be emptied as soon as they are filled.
9. Dumping or washing of any concrete is not allowed anywhere within The Settings of Black Mountain, with the exception of the project lot, and all dumped concrete must be removed prior to end of the project.
10. No food, food waste or food wrappings may be placed in the debris bin or left in an unsecured manner at any time. Any such material left on the job site outside of working hours is subject to a fine without warning.
11. No construction site office trailer may be placed on any project site.
12. Construction vehicles and trucks must park on the construction site or on the paved street along one side of the road. Parking on shoulders, adjacent lots, or common areas is not allowed. Vehicles or equipment of the Builder and their subcontractors shall not block any driveways, roadways, or fire hydrants. Vehicles shall not be parked in front of existing houses, across from driveways of existing houses, in front of mailboxes, or in any way impede access to existing houses. Parking in violation of these requirements will be warned on the first occurrence, fined on the second occurrence, and subject to additional fines and stoppage of work on the third and any subsequent occurrences.
13. Utilities, street signs, retaining walls and sidewalks are installed in the Association road right-of-way. Builders and their Subcontractors must protect these features from damage by their vehicles and equipment. Damage by the Builder or any subcontractor to any Association infrastructure is the responsibility of the Builder and must be repaired by the Builder to the original condition. Any costs incurred by the Association to restore said elements or return said areas to their original condition must be reimbursed by the Builder. Failure to report any damage caused by the Builder or their Subcontractors is subject to an immediate fine on all occurrences and permanent removal of the offending party.
14. Portable toilets, which are placed temporarily on a house site during construction, shall be located as far back on the lot as possible yet still maintain service access. The toilet door shall face away from the street. The unit shall not be placed on the roadway. Toilets shall be secured to prevent tipping that can be caused by high winds that regularly prevail in the community.

15. Material removed from the construction site must not be relocated to any other location in The Settings. Illegal dumping will subject the Builder to fines and work stoppage without warning. Any material dumped in violation of this rule must be removed within three (3) business days of written notice from the Association, or the Association will take action to remove such material and require reimbursement from the Builder to the Association.
16. No construction mud/silt runoff or debris from cleared and disturbed land shall infiltrate the storm sewer system or run onto adjacent lots. If runoff infiltrates the storm sewer, the storm sewer shall be cleaned out immediately. Failure to comply will result in a warning on the first occurrence, fines on the second occurrence, and will be subject to fines and stoppage of work on the third and any subsequent occurrences.
17. Should blasting be required for work on any site, the appropriate local, county, state or federal permits and requirements are the responsibility of the Builder. Copies of all such permits and requirements are to be delivered to the DRB for review a minimum of 5 business days prior to commencing blasting work.
18. No alcoholic beverages or illegal drugs are permitted on any job site. Violators will be asked to leave the community immediately. Fines will be levied against the Builder immediately on any occurrence.
19. No open fires are allowed on construction sites or anywhere else within The Settings. Fines will be levied against the Builder immediately on any occurrence.
20. The possession of firearms within The Settings is prohibited. Fines will be levied on any occurrence, and the offending party will be permanently denied further access into the community.
21. Playing of loud music or excessive noise is prohibited. Music should not be heard outside the house. Violation will result in a warning on the first occurrence, a fine on the second occurrence, and fines and work stoppage on the third or later occurrences.
22. The Association prohibits bringing animals onto the property, either by the Builder or their representatives. Violation will result in a warning on the first occurrence, a fine on the second occurrence, and fines and work stoppage on the third or later occurrence.
23. Builders or their representatives are not allowed to bring any person less than 17 years of age to any job site. Violation will result in a warning on the first occurrence, a fine on the second occurrence, and fines and work stoppage on the third or later occurrences.
24. Construction debris, dirt, rocks or litter must be swept or otherwise removed from the street(s) adjacent to the project lot at the end of each day.
25. Smoking is allowed on the job site only and not on anywhere else in the community. The builder must provide a receptacle for extinguishing and collecting all smoking material. Smoking material discarded anywhere in the community other than proper receptacles is subject to fines on all occurrences.
26. Overnight storing or parking of equipment or vehicles on streets or vacant lots is prohibited without explicit permission from the DRB. Violation will result in a warning on the first occurrence, a fine on the second occurrence, and fines and work stoppage on the third or later occurrences. The

Association may tow vehicles that are parked in violation of these guidelines at owner's or builder's expense.

27. If the Builder needs to temporarily store or park any equipment or vehicles due to lack of access to the lot, a written request for permission must be made to the DRB through the management company at least three (3) business days in advance. All material, equipment, or vehicles located in the streets must be properly marked with hazard protection, flags, or cones as necessary. The Builder should consult with the DRB if unsure as to proper location for vehicles and equipment on specific job sites.

28. Builders, subcontractors and their representatives should take all precautions to prevent accidents. In the event that loading or unloading materials and equipment must take place on curves, intersections, steep roads or blind driveways, flagmen and warning flags and/or cones must be used.

29. Excessive speed within the community is prohibited; speed shall not exceed 25 mph, and limits will be enforced. It is the responsibility of the Builder to inform subcontractors and supply delivery vehicle drivers as the Builder will be held accountable. Violations will result in a warning on the first occurrence, and fines and permanent removal from the community on subsequent occurrences.

30. Owners/Builders must inform their crews, subcontractors, and delivery personnel that they are not to use other owners' driveways or lots as turn-around points, whether there is a house there or not.

31. Any Builder, subcontractor or their employees and/or representatives who violate this Property Owner/Builder Affidavit may be prohibited from entering The Settings property by the Association's Board of Directors or the DRB. It is the sole responsibility of the Builder to provide all Subcontractors and representatives with a copy of this Affidavit, and ensure the guidelines are followed.

32. The DRB will provide the Builder with signs (in both English and Spanish) that identify the permitted construction hours and the proper disposal of food/drink. These signs must be posted and visible on the job site.

NON-COMPLIANCE FINES

<u>Violation</u>	<u>Fine Amount</u>
Construction Start without All Required Permits displayed on site	
- Results in Construction Stoppage & Fine	1,000.00
Failure to post DRB supplied rules on site	100.00
Silt/Erosion Fencing not installed or maintained	100.00
Littered Job Sites	Min 100.00
Dumping of material anywhere than the building site	750.00
Lost loads of any bulk material (gravel, sand, fill material, etc.)	Min 500.00
No Sanitary Facilities on Job Site	100.00
Working outside of approved hours	150.00
Parking in No Parking areas	150.00
Failure to secure portable toilets	150.00
Materials and/or Equipment on Right-of-Way	150.00

Damage to Association Infrastructure	
- Results in fine plus cost of repair	150.00
Non-Approved Exterior Color Palette Changes (Total Determined By DRB)	Min \$500.00
Unauthorized persons (underage) on site	500.00
Non-Approved Plan Changes (At DRB Discretion)	Min 500.00
Burning on Job Site or Property	1,000.00
Possession of alcohol or firearms	500.00
Failure to report damage to community or private property	
- Results in fine plus cost of repair	500.00
Occupation of house without written Certificate of Occupancy	250.00/night
Cutting of trees without prior DRB approval (For each tree)	
Trees between 6” and 11” diameter	1,000.00
Trees between 12” and 23” diameter	2,500.00
Trees 24” or greater diameter	5,000.00

Unauthorized tree removals will result in mandatory replacement of the removed trees with trees of 25% cumulative diameter of those removed.

The above referenced fines are assessed by the DRB and are due within 10 business days of written Notice to the Builder and/or Owner. Any fines that remain unpaid after 30 days from receipt subject the Builder to stoppage of work on the project. Trees required to replace those removed without approval must be planted within three months of written notice of the infraction from the DRB.

In addition to the fines, the owner/builder will be required to pay for any expenses necessary to bring subject property into compliance with the Design Standards and Guidelines. The list of violations and amounts are subject to change by DRB recommendation and Association Board of Directors approval, with the effective date specified in the document footer.

Local, County, State or other governmental entities may levy additional fines or penalties, as allowed by ordinance, in addition to the DRB Fine Schedule.

Attestation

I hereby certify that I/We will construct the dwelling in accordance with the design and representations made on the “Design Review Application”, including plans, specifications and oral representations. All Design Standards, governmental requirements, and rules in this affidavit will be adhered to by all parties. I understand all changes to previously approved plans require resubmission and approval.

Lot number: _____

Street Address: _____

Owner's Name(s)

Owner's Signature(s)

Date

Builder's Company Name

Builder's Signature

Date

Landscape's Company Name (if contracted separately by Owner)

Landscape's Signature

Date

Space below for Design Review Board & Board use only

Date Received:

Management Company Representative:

The Design Review Board has reviewed the foregoing application and rendered the following decision:

_____Approved _____Disapproved _____Pending Modifications/Approvals

The Board of Directors has reviewed the foregoing application and rendered the following decision:

_____Approved _____Disapproved _____Pending Modification/Date

Appendix 4

Gate Access for Builders in The Settings

This process is provided to allow access to the community for approved builders, subcontractors and occasional suppliers of goods and services in the construction of houses and other builder/contractor services as necessary. It is the intent of the Association to provide security and safety to our residents and property owners, while at the same time giving access to the builders and service providers in a simple and consistent manner. Adherence to this process is critical to retain the access that is desired.

The Settings of Black Mountain Homeowner's Association/Design Review Board (Association/DRB) Guidelines allow for construction activity between the hours of 7:00 am and 6:00 pm Monday to Friday, and from 9:00 am until 4:00 pm on Saturdays. No construction is permitted on Sunday. No construction is allowed on the following holidays: Christmas Day, Thanksgiving Day, New Year's Day, Memorial Day, Fourth of July, and Labor Day. If the holiday falls on a weekend, and there is an associated federal or bank "in-lieu" holiday on another day, work is not permitted on the actual weekend holiday, but is permitted on the in-lieu holiday. For example, if the Fourth of July falls on a Saturday and federal offices and banks are closed on Friday the third of July in observance of the holiday, work would be permitted on July 3, but not on July 4.

Where specific circumstances necessitate work on restricted days, consideration for access will be reviewed upon application to the Management Company at least two (2) business days\ in advance and approved in writing before access is granted.

Gate access to Builders and their contractors is granted by the DRB through the provision of gate bar code stickers, access codes, and contact numbers on the call box.

In general, all access for builders and their service providers is only allowed through the resident gate (large gate to the right at the entrance).

- Bar code stickers are provided for the entrance gate by the management company (FSR) to the general manager and superintendents of active builders. As long as the builder retains approval to build in the community, the access to the community will remain in place. This allows the builder to have access for designers, surveyors and other service providers necessary to conduct concept development, preliminary design and other activities outside the course of the construction process.
- Access codes for other approved subcontractors who require regular access to the project are provided by request of the builder to FSR. These codes are valid only for the time frame specified in the process below. Contact numbers are provided on the entrance call box for builder's phone numbers, allowing occasional access for suppliers and services that do not require regular access to the building site.

Entrance to the community through the small entrance gate (left side under the porte cochere) is reserved for property owners with personal codes and shall not be utilized by any builder or their providers under any circumstances. Service providers who request access to the community outside of normal hours, via the call box at the entrance, must call the builder and announce their presence so that the builder can open the large gate remotely.

Gate access by any other means than allowed by this process will subject the violator to lose approval, possibly incur a fine, and other actions as allowed by the agreed guidelines. Moreover, all vehicles must exit the community through the exit gate. Exiting through the open entrance gate is a safety hazard and is prohibited. Video surveillance is utilized in the community, and appropriate action will be taken against offenders.

All means of access are granted by application to the management company (FSR) and approval by the DRB. .

Specifically, approved builders must apply for access to the community for each project approved by the DRB. The process should follow these steps:

1. Upon written approval by the DRB for a new project, the builder will contact FSR to initiate the gate access program.
2. The builder will provide a list of superintendents, subcontractors, and service providers that will need gate access throughout the project. This list is to be completed on a spreadsheet provided by FSR.
3. The DRB will work with FSR to approve requests for gate codes and other means of access, including bar code stickers or call box phone numbers.
4. Gate codes and other means of access will be provided to the builder upon approval. These means of access are approved for a time period as approved by the Association.
5. Call box phone numbers should be considered as the preferred means of access for irregular service providers. This allows the process to be simpler than providing codes to many contractors who do not need regular access and allows for unanticipated visits outside of the normal working hours when the gates are open. Gate access call box numbers will not function outside of approved working hours.
6. The gate codes will be changed every (3) months and advised to the builder at least 5 days before the end of the month in which they expire.
7. FSR and the DRB will work with builders to identify and approve certain subcontractors who work in The Settings on a regular basis, so as to provide rolling approval and access to these parties. This might include plumbers, electricians, heating and air conditioning companies, painters, etc. who provide services across many of the builders working in the community. This also is intended to help residents who continually use these providers.
8. Any proposed changes to the gate access should be made in writing to FSR at least three (3) working days in advance of the need.

The Association reserves the right to change this process at any time, and to take action against any violators. Builders agree to follow the guidelines set forth by the DRB.

Appendix 5

Application for Residential Improvements

Submit Complete Applications to
The Settings DRB,
c/o FirstService Residential 5970 Fairview Road, Suite 710,
Charlotte NC 28210
Email- settingsofblackmountain.drb@fsresidential.com

DATE _____

OWNERS NAME _____

PROPERTY ADDRESS _____ LOT NUMBER _____

PHONE _____ EMAIL _____

Project (check all that apply):

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Fence/Enclosure | <input type="checkbox"/> Deck/Patio | <input type="checkbox"/> Landscape Improvement | <input type="checkbox"/> Play Equipment |
| <input type="checkbox"/> Satellite Dish | <input type="checkbox"/> Landscape Lighting | <input type="checkbox"/> Pool/Spa | <input type="checkbox"/> Exterior Paint color |
| <input type="checkbox"/> Roof Change | <input type="checkbox"/> Tree Removal | <input type="checkbox"/> 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 6

Project Closeout

FINAL INSPECTION CHECKLIST (for closing out house construction projects)

DATE OF VISIT: _____

DRB ATTENDEES: _____

PROPERTY ADDRESS/LOT Number: _____

BUILDER: _____

PRESENT AT VISIT: _____

Date CO Issued by Town of BM _____

Verified by: _____ (Town Rep)

Conditional or Unconditional?

DRB to have reviewed notes from project documentation gathered over the course of planning and construction. Those items include:

1. Confirm all fees paid and cleared with FSR
2. Ensure no changes made from approved plan unless approved by DRB
3. Confirm any penalties assessed during course of project, and payment if applicable

REVIEW POINTS:

1. Project closed out within 180 days after receipt of CO
2. Drainage - positive flow away from house
3. Erosion control - planned, implemented, verified - what was install date - consider events since install
4. Landscaping complete per plan, appropriate screening for outside mechanical equipment
5. Exterior Lighting (including landscape lighting) installed in accordance with guidelines. Visit project in the evening with all exterior lights illuminated to ensure meets guidelines
6. Exterior Paint/Stain colors per plans. Vents painted on structure or roof - No galvanized or white pvc
7. Chimney Covered – Color/material coordinated with other house material
8. Driveway complete as approved for color/materials. Curb cut (if applicable) built up to street from driveway
9. Mailbox (if installed, must be Association approved box)
10. Storm drains in area clean of debris or construction material debris, concrete
11. No out buildings/fences/other structures on site that were not approved
12. Adjacent property free of damage from parking, trash, etc.
13. No damage to subdivision/community, roads from this construction project
14. All construction materials, signs, litter, trees and brush removed from property
15. Ensure all trailers, construction equipment, debris bin and porta-john removed from property.

Other comments or items reviewed/noted:

DECISION BY DRB: Approved at visit____ **Disapproved at visit** ____
Date _____ **by DRB** _____

Disapproved due to:

Letter of Decision to Builder/Property owner Sent _____

IF 2nd Visit Required - Date for verification of corrections/completion _____

2nd Letter of Decision to Builder/Homeowners Sent _____

Notify FSR: (indicate notification dates below)

Construction Compliance Deposit to be refunded to homeowner:

Approved _____ or Retained _____

Date _____ by DRB _____

If retained - state amount and reason _____

FSR Release of Monies for Compliance Deposit:

Amount to be returned to Homeowner - \$ _____

Date Refunded _____

FSR to rescind/cancel all entry codes associated with this project / Date Done _____

FSR to delete the Construction Company phone number from the Greeters Cottage Call Box if applicable
(depending on ongoing projects) / Date done _____

Appendix 7

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 through the Association Management Company, FirstServices Residential (FSR) at settingsofblackmountain.drb@fsresidential.com, **Electronic submittals should also be copied to the Design Review Board** 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 8

Firewise Guide to Construction

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

Appendix 9

Firewise Construction Checklist

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

Appendix 10

Firewise Landscaping Checklist

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

Appendix 11

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