

# **Mill Creek**

## *Amended Design Guidelines*

*April 9, 2015*

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## **SECTION 1 OBJECTIVE OF THE GUIDELINES**

It is the purpose of the Guidelines to protect and enhance the environment of Mill Creek and to create a development with a real sense of community.

A thoughtful determination to limit the number of home sites allows only a privileged few the pride of ownership here. For those few, each lot within Mill Creek possesses unique opportunities while being part of a larger fabric of neighboring home sites.

The Guidelines stress the importance of integrated design of site and residence so each home is compatible with the setting and image for Mill Creek as a whole. Each residence will require careful design to complement neighboring settings, which includes attention to massing, color and height as well as landscaping. Appropriate design can create a residence compatible with this setting, while providing the owner with a comfortable, livable home to enjoy for many years. Although an effort has been made to have Mill Creek guidelines be consistent with Flathead County regulations, each Owner and their advisers is responsible for reviewing county regulations and other applicable restrictions and making sure they are in compliance.

Design review is not intended to enforce unreasonable controls nor dictate a specific design solution, rather it is intended to achieve an architectural character appropriate to the Mill Creek community and ensure each residence is a unique reflection of its owner while fitting in to the setting and image of Mill Creek. A worthy variance from the literal translation of these guidelines will be considered objectively by the Design Review Committee (the "Committee"). However, the Committee will maintain a consistent application of the intent of the guidelines on an equitable and uniform basis.

The purpose of the Committee is to evaluate the design of a proposed structure by itself and also within its environment and neighborhood settings.

## **SECTION 2 SITE DEVELOPMENT GUIDELINES**

The natural environment in Mill Creek is unique to this development. Each lot in the Mill Creek landscape has particular features of topography, slope, views, waterfalls, streams, ponds, pathways and golf course. The Committee stresses the importance of integrated design of site and residence so that each home responds to the natural characteristics of each specific lot. Given this requirement to be site-specific, it is important to realize the designs that may work on one lot may not work on another lot. The following site development guidelines deal with issues of siting, grading and landscaping.

### **2.1 THE BUILDING ENVELOPE**

The Building Envelope is the portion of each lot within which all improvements must be built except for driveway and parking pad, the locations of which must be approved by the Committee.

### **2.2 DWELLING SIZE, SINGLE FAMILY LOTS**

No dwelling shall be permitted on any lot which violates these provisions:

- a) Definitions: Basements are not included in the total square footage stated herein, and are also not

included in the description. Therefore, a single story dwelling as used herein may or may not include a basement. If it does, the square footage of the basement shall not be included in the gross square footage calculation. Garages are not included in the total square footage stated herein.

- b) Single story dwellings shall not have less than 1,200 square feet and not more than 3,500 square feet.
- c) Multiple story dwellings may not have less than 1,600 square feet or more than 5,500 square feet.
- d) No structure shall exceed two stories (excluding the portion of the basement, which is below the natural grade) in height (excluding the roof) above the natural grade without the approval of the Design Review Committee.
- e) No structure shall exceed 35 feet above the grade at the structure's highest point (excluding chimney).

### **2.3 TOWNHOUSE SIZE**

No structure shall be permitted on any lot which violates these provisions:

- a) Definitions: Basements are not included in the total square footage stated herein, and are also not included in the description. Therefore, a single story dwelling as used herein may or may not include a basement. If it does, the square footage of the basement shall not be included in the gross square footage calculation. Garages are not included in the total square footage stated herein.
- b) Single story structures: Each Unit within the structure having not less than 1,000 square feet and not more than 2,000 square feet.
- c) Two story structures: Each Unit within the structure having not less than 1,200 square feet and not more than 3,500 square feet.
- d) No structure shall exceed two stories (excluding the portion of the basement which is below the natural grade) in height (excluding the roof) above the natural grade without the approval of the Design Review Committee.
- f) No structure shall exceed 35 feet above the grade at the structure's highest point (excluding chimney).

### **2.4 OUTBUILDINGS**

All outbuildings on a Lot (including detached garages and car ports) shall be constructed in keeping with the construction and architecture of the home and any other buildings located on the Lot and shall present an exterior appearance similar to any other buildings located on the Lot. All outbuildings shall be kept and maintained in good condition, repair, and appearance.

All outbuildings shall be placed with views of the neighboring lots taken into consideration and must be approved by the Design Review Committee

## **2.5 NO TEMPORARY STRUCTURES**

No temporary building or partially finished building or structure shall be erected or placed upon this property.

## **2.6 LOT SETBACKS**

There shall be no buildings of any kind within 20 feet of the front and rear lot lines and 10 feet from the side property lines. Other than garages and carports, which may be considered in limited cases at the sole discretion of the Committee, no outbuildings or appurtenant structures be allowed in front of (toward the street) the main residential structure.

## **2.7 NO SUBDIVISION OF LOTS**

No lot shall be further subdivided in any manner. A change in boundary lines between adjacent owners may be considered. Interior lot line adjustments may be approved.

## **2.8 STRUCTURES**

All houses constructed upon the premises shall be constructed in keeping with the location terrain, and environment of the premises and so as not to be unsightly. No home, outbuilding, fence, wall, or other structure shall be commenced, erected or maintained upon the property, nor shall any addition to, change of, or alteration therein be made until plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, the Design Review Committee. In the event said committee fails to approved or disapprove such design and location within thirty (30) days after said plans and specifications have been so submitted, approval will not be required, and this article will be deemed to have been fully complied with. Minimum plans for review will consist of the site plan with proposed grading, floor plans, and exterior elevations identifying all finish materials. Noncompliance with plans so approved by the Design Review Committee will not be allowed and the committee may take any legal action necessary to assure compliance with the approval conditions. Two sets of the submittal package shall be required for architectural review.

## **2.9 DWELLING CONSTRUCTION**

No house trailer, mobile home, or any other prefabricated structured design to be hauled or moved on wheels, shall be placed, parked or used upon the property for residential purposes. No old or previously used, buildings, whether intended for use in whole or part as the main residential structure or for use as a garage or other outbuilding shall be moved, or permitted upon, any part of the property herein described. Each dwelling shall be fully completed externally, including siding and/or masonry, paint and roof, ground finish graded, and building debris removed within 12 months from the time construction starts on such building and shall not be occupied until such time as the above work is completed, in addition to the installation and completion of all plumbing fixtures and utilities.

## **2.10 EXTERIOR FINISHES**

All exterior material and color choices must be approved by the Design Review Committee. See Section 3.2 for further information.

## **2.11 GOLF COURSE IMPACT**

A number of lots in the community back onto Eagle Bend Golf Course. As with all golf frontage lots, there is an inherent risk that golf balls and the play of golf may impact a lot or residence. The Committee strongly recommends that, during the site planning of a lot, detailed consideration be given to the possibility of errant golf balls, particularly with the orientation of windows or other breakable surfaces of the residence. Netting, screens, excessive landscaping, fences or large blank walls will not be allowed. Evaluation of the proper siting, orientation, massing and setbacks should provide for maximum golf or view orientation with minimal adverse impact from the play of golf. Design consideration should also be given to the noise generated by golfers, golf carts and golf maintenance vehicles.

## **2.12 LANDSCAPE PLAN AND PLANT MATERIALS**

All areas that are not paved or graveled shall be revegetated with appropriate plant materials. Care should be taken to choose plant materials, whether native or not, that are suited to the microclimatic conditions in sunlight, soil, and moisture conditions in the locations where they will be placed.

Landscape plans must be submitted prior to the completion of construction of the residence to the Design Review Committee (see Section 4). Each Single Family Residence Lot must contain a mixture of deciduous trees and evergreen trees. No cottonwood trees or poplar trees, other than Aspen will be permitted under any circumstances. Each Townhouse Lot must also have a mixture of deciduous and evergreen trees.

## **2.13 PRIVATE AREAS**

Within private areas, plantings immediately adjacent to the residence are not restricted and may include ornamental plants that are not native to the local area.

The Private Area is that part of the building lot which is not visible from neighboring property because it is hidden behind walls or structures. The Private Area is the least restrictive in terms of what plants, shrubs can be planted therein. Owners can construct a swimming pool in private areas. The design must incorporate necessary safety standards, setbacks, and visibility from neighboring lots, and be approved by the Design Review Committee.

## **2.14 ENTRANCE DRIVEWAYS**

Single-family lot entrance driveways should be located so as to minimize their visual impact. In almost all instances each lot will have its own driveway and only one driveway entrance off of the street will be permitted for each lot. All driveways will be hard surfaced and will have to be approved by the Design Review Committee.

## **SECTION 3 ARCHITECTURAL GUIDELINES**

These guidelines do not intend to dictate architectural style of design within Mill Creek, although all designs must be of a character appropriate to the environment and climatic conditions. The committee encourages architecture that uses natural materials in keeping with their physical nature and structural capabilities, construction types that have shown permanence and durability, and architectural integrity. There are many examples of similar architecture within the Flathead Valley region that are appropriate for setting the tone for the character of Mill Creek. These examples reflect the early settlement of the Valley and the settlers'

efforts to shelter against harsh winters, while at the same time, open up to mild spring, summer and fall climate. The architectural character of the region is influenced by such diverse examples as Forest Service lodging and farm homesteads including their use of indigenous building materials — wood, timber and stone. Designs that deviate broadly from this contextual vernacular are discouraged, e.g., eclectic, post-modern, Mediterranean, or any other period styles that might be suitable in other contexts.

The design character should create a residence that blends with the Mill Creek environment instead of standing out against it. Essential to the design and construction of your property is respect of neighboring homes and common area. The design character of a residence should be considered uniformly from all sides, not just the front or rear elevations, and all elevations should maintain visual integrity, cohesiveness and design detail. Particular attention should be given to the transition from one residence to another. Transition refers to aesthetic aspects as well as to the relationship of the elevation of the respective floor levels and the comparative overall massing of the structures.

Continuity of landscape and the relative subordination of buildings is key to attainment of the distinctive character of Mill Creek. Building forms, materials and colors should blend with and complement rather than compete with the natural landscape. Emphasis on natural materials and muted colors is essential. In order to create an intimate residential scale, long, unbroken walls and roofs should be avoided and vertical and horizontal offsets need to be included. To further reinforce this concern for scale, architectural forms should be softened by the inclusion of chimneys, balconies, bay windows, appropriate entrance treatments, and other such devices. To engage with the outdoors and contribute to a sense of community, porches and patios are strongly encouraged.

It is usually more effective visually and economically to have fewer, but larger offsets rather than a series of small jogs. A two-foot job is barely noticeable; four-feet is better; six-to twelve-feet cast a significant shadow and have a definite visual impact. Horizontal offsets can also contribute to added privacy and wind protection of outdoor spaces, reducing the need for elements such as fences and wall extensions.

The articulation of massing can be heightened by projections such as decks. However, the deck must be an integral part of the building design avoiding the "tacked-on" look.

### **3.1 ROOFS**

Since roofscapes will form an important part of the visual environment, they must be carefully designed. All roofs should be pitched, with a six in twelve slope or greater recommended for the main roof. On a case-by-case basis, the Committee will review sections where the roof pitches are less than outlined above. Mansard roofs are prohibited.

The Committee strongly recommends that sloping roofs be designed as sheltering and shading elements, normally with broad overhangs and strong shadow lines. Thin edges or thin fascias will be avoided. Sloped roof materials should be textural with very dark or deep color tones. Roof surfaces must be non-reflective and, in the opinion of the Committee, not visually objectionable from neighboring properties and roads. Sheet metal roofing is prohibited.

The composition of roof forms should be carefully considered. No continuous ridge lines should exceed 35 feet. Changing ridge direction, offsets or major roof projects should be used to break ridge lines..

The placement of the various pipes and vents that penetrate the roof should be considered. Combine them in the attic space and project through roof in a common enclosed stack when possible. Where practical, place stacks on the roof away from the side of greatest visibility. All roof vents are to be colored to match the dominant roofing material.



### **3.2 COLORS**

Color selections are intended to enable Mill Creek to be compatible and complementary with its natural setting. In order to achieve this objective, acceptable colors will include:

- Earth related tones, ranging from weathered driftwood (a very light gray) through to mocha brown (a rich earthy brown) and autumn leaf-influenced rust colors.
- Rich umbers, greens, reds and ochres.
- Weathered blues.

Color approval is at the sole discretion of the Committee. The use of a specific color on an existing residence shall not be considered precedence for its use again. Rather, each home shall be judged individually on its own merits and in relation to neighboring homes.

### **3.3 REFLECTIVE FINISHES**

No highly reflective finishes, except glass, which may not be mirrored, or opaque, and door hardware, shall be used on exterior surfaces including exterior artwork and sculpture.

### **3.4 MATERIALS — EXTERIOR SURFACES**

Exterior surfaces must generally be of materials that harmonize with the natural landscape. Consistently applied, quality materials are preferred, such as wood or timber elements, shingles or natural stone. Recommended siding materials include stone, wood siding and shingles and fiber cement siding and shingles. Stucco may be used as part of a total design if relieved with wood, timbers, or other elements. Small areas of materials applied inappropriately for decoration will not be approved. The street side of the homes must contain acceptable amounts of stone, rock, brick, wood or shingles, which will be approved by the Design Review Committee.

In order to impart a sense of solid, substantial construction and to avoid a tacked-on, thin veneer look, material changes should terminate at a logical inside corner plan shape change or at a major wall opening. Changes at outside corners should be avoided. Exterior finish materials should be continued down to the finish grade, thereby eliminating unfinished foundation walls.

### **3.5 BUILDING PROJECTIONS**

All projections from a building including, but not limited to, chimney caps, vents, gutters, scuppers, downspouts, utility and/or meter boxes must be enclosed. Porches, railings, and exterior stairways shall match the color of the surface from which they project or be an appropriate accent color, unless otherwise approved by the Committee. All building projections must be contained within the building envelope.

### **3.6 SKYLIGHTS/INTERIOR LIGHTING**

Shall be flat, low silhouette, and non-glare.

### **3.7 EXTERIOR LIGHTING**

The goal of Mill Creek is to maintain the Montana Big Sky with minimal visual impact, which extends to nighttime as well as daytime views. In order to preserve the general stillness with the nighttime darkness and the night sky, which tends to be obscured by excessive local lighting, the following guidelines for residential site lighting have been established.

Site lighting is defined as lighting mounted on the building, ground, trees or site walls for the purpose of

providing security, decorative accent or functional lighting to outdoor spaces. Building mounted lighting is defined as lighting built into or attached to buildings on walls, ceilings, eaves, soffits or fascias.

- a) Site lighting must be directed downward onto vegetation or prominent site features and may not be used to light walls or building elements. Up lighting more than 45 degrees above the horizontal is prohibited and lighting aimed between zero and 45 degrees above horizontal must be directed toward the interior of the lot upon which it is located.
- b) Building mounted lighting must be directed downward away from adjacent lots, streets and open spaces, and may not be used to light walls or building elements or decorative purposes.
- c) All exterior lighting must provide for significant shielding to ensure that light sources and lamps are not visible from other properties, from roads, or from off-site; no bare lamps will be permitted. Recessed lights in exterior soffits, eaves, or ceilings shall have the lamp recessed a minimum of 3 inches into the ceiling.
- d) Only incandescent lamps with a maximum wattage of 75 watts will be allowed for exterior lighting unless specific approval is received from the Committee. Low voltage lighting is recommended since these fixtures are typically small and can be easily concealed within the native vegetation. Colored lights will not be allowed for exterior lighting.
- e) No lighting will be permitted in natural areas or outside the areas enclosed by patio or building walls. Site lighting must be confined to areas enclosed by walls or be in the immediate vicinity of the main entrance or outdoor living spaces of the residence.
- f) Lights on motion detectors for the purpose of security illumination may be allowed subject to specific approval of the Committee if the lights so activated do not illuminate adjacent properties. If allowed by the Committee, these lights will only be allowed to operate on a motion detector and stay lit for a maximum of five continuous minutes. Security lights of any type or location must still meet the requirements of shielding the light sources, and the light sources may not be visible from neighboring property. If problems with these lights occur, the Committee reserves the right to demand that the fixtures be disconnected. If allowed, care must be taken to avoid setting off the motion detector by the motion of vegetation and the movement of wildlife. Generally, the motion detector's range should be limited to the Building Envelope area. These lights will not be allowed to operate for the purpose of general illumination.

### **3.8 WINDOWS**

Windows should be carefully located and detailed to add substantialness to the residence. The plane of the glass should be recessed from the exterior wall face, with suitable solid trim. All windows must be trimmed unless approved. White Vinyl windows are discouraged.

All exposed aluminum sash and framing shall be an approved anodized color or vinyl coated. Exposed mill finish aluminum, including window screens, is not permitted. Metal finishes on solariums and greenhouses are included in this category.

### **3.9 SOLAR APPLICATIONS**

Passive solar applications or the orientation and design of the residence for maximum winter sun gain will reduce the winter heating needs, and will be encouraged. Active solar collectors can cause excessive glare and reflection, and can only be approved if they are integrated into the structures or landscaping. As

with all design elements of a residence or Improvements, solar collectors must be integrally designed, aesthetically pleasing and meet all other applicable restrictions set forth in these Guidelines. Solar collectors must meet the requirements of skylights.

### **3.10 FENCES, SITE WALLS, AND HEDGES**

Not all lots will be approved for fences, site walls, or hedges because of site considerations and view blockage. Fences, site walls or hedges that are approved may be used to define property lines or to provide privacy. All fence material, color and design shall be approved by the committee. Wood fences should be stained rather than painted. Fences shall have a maximum height of 5'-0". All hedges that are approved must be trimmed at no more than 5'-0". Fences should be setback from the front of the house.

Screen walls should be a visual extension of the architectural design of the residence. They may be used to separate the private areas from the rest of the Building Envelope. They may not be used to delineate property lines or delineate the Building Envelope. Masonry site walls are preferred. The color of these walls must conform to the color standards described in these Guidelines. Both fences and site walls will be approved at the sole discretion of the Design Review Committee.

### **3.11 GARAGES**

Every effort should be made to minimize the impact of the garage and garage doors(s). Careful siting and driveway orientation can ensure that the visibility of the garage is minimized from the street and adjacent lots. Garages should normally be set back and oriented away from the street if possible. In an effort to minimize garage impact, no more than three garage stalls will be allowed adjacent to each other.

The appearance of the garage door must blend with the home design. Carriage doors are required on all dwellings. The garage doors offer an opportunity to enrich the texture, rhythm and overall composition of the design and the Design Review Committee expects that each home will capitalize on this opportunity. Flush panel doors are prohibited.

## **SECTION 4 REVIEW AND APPROVAL PROCESS**

In order to assist Owners in taking full advantage of the unique opportunities of their lots in the planning and design of their residence, a comprehensive design review process administered by the Design Review Committee has been established. Under the Declaration, the Design Review Committee is charged with the responsibility of maintaining the standards set forth in Mill Creek Design Guidelines.

In its ongoing attempt to achieve the highest possible quality at Mill Creek, the Design Review Committee may modify or create additional guidelines, policies or procedures. In exercising its discretionary powers, the Committee may also moderate its interpretations of various portions of the guidelines as it gains experience with their application. **IT IS RECOMMENDED THAT EACH OWNER AND PROPOSED DESIGNER COMMUNICATE WITH A REPRESENTATIVE OF THE DESIGN REVIEW COMMITTEE PRIOR TO COMMENCING THE PROCESS.** Please contact the Committee for an appointment and to receive the latest amendments to the Guidelines or current policies prior to proceeding with design.

In general, the design review process is divided into five phases:

- 1) Pre-Design Meeting
- 2) Preliminary Submittal

- 3) Final Submittal
- 4) Construction Approval
- 5) Final Construction Review

It is strongly recommended that an Owner retain competent professional services for planning and design. A thorough analysis and understanding of the Owner's special needs and the skill to translate this into building form, as well as the ability to convey to the Committee the concept and design of a proposed residence or other improvements, are all important elements of the design review process.

The design review process was developed to provide adequate checkpoints along the way, in an effort to minimize time and money spent on designs which do not adhere to the Mill Creek Design Guidelines or to the overall philosophy of Mill Creek. An attempt has been made to streamline this process to eliminate excessive time delays. Nevertheless, each Owner is directly responsible for complying with Mill Creek Design Guidelines, and all other applicable provisions of the Declaration, as well as all rules and regulations of any governmental authority, in order to bring the design review process to a speedy and satisfactory conclusion.

The Committee will conduct reviews of projects during their regular meetings or as such other times as it deems appropriate. The Committee will respond in writing to the applicant no later than thirty (30) days after a submittal has been reviewed by the Committee. Results of reviews will not officially be discussed over the telephone with an Owner or his architect or builders. All official actions, responses and communication from the Committee, any of its members, or the Design Review Coordinator, will be conveyed in writing. Any responses an Owner may wish to make in reference to issues contained in the Committee's notice following review of submittals should be addressed to the Committee in writing. The Committee may avail itself of technical and professional advice and consultants (including a Design Review Coordinator) as it deems appropriate, and the Committee may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the Committee. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant will be equivalent to approval or disapproval by the entire Committee.

Except as provided in this Section below, all expenses of the Committee will be paid by the Association and will constitute a Common Expense. The Committee will have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Committee from time to time, and such fees will be collected by the Committee and remitted to the Association to help defray the expenses of the Committee's operation. In addition, the Association may engage outside consultants and other professionals to review submissions, the cost of which shall be borne by the person or entity making the submission or request.

The Committee will review, study and either approve or reject proposed Improvements on the Property, all in compliance with this Declaration and as further set forth in the Design Guidelines and such rules and regulations as the Committee may establish from time to time to govern its proceedings. No Improvement will be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair, or reconstruction be commenced until plans for the Improvements shall have been approved by the Committee; provided, however, that Improvements that are completely within a Building may be undertaken without such approval. All Improvements will be constructed only in accordance with approved plans.

Preliminary Submittals must be made a minimum of seven (7) calendar days prior to the review meeting at which they will be discussed. Final Submittals, and any revised submittals must be made a minimum of seven (7) calendar days prior to the review meeting at which they will be discussed. Dates of scheduled Committee meetings are available from the Committee Chairman.

Although the Committee will enforce all provisions of the Guidelines, the following will be of particular concern:

- a) Siting of the residence and outbuilding within the Building Envelope to be sensitive to views and privacy from other lots or open spaces.
- b) Architectural character as viewed from all sides and specifically from the golf course, streets and common areas. The massing, texture and materials of the design are critical.
- c) Building heights and masses as per these Guidelines.
- d) Finished floor levels and grading showing existing site elevations.
- e) Exterior elevations of the residence, including a high level of aesthetic quality and the use of consistent, substantial materials.
- f) Setbacks along the boundary adjacent to the golf course, to maintain visual and safety separation.
- g) Exterior paint and other material colors, as well as color usage and distribution.
- h) Landscape character and plant materials appropriate to the community.

#### **4.1 PRE-DESIGN MEETING**

To initiate the review and approval process prior to preparing any drawings for a proposed residence or improvement, it is recommended that the Owner or his Representative communicate with a member of the Design Review Committee or the Design Review Coordinator to discuss the proposed residence and to explore and resolve any questions regarding building requirements in Mill Creek or the interpretation of Mill Creek Design Guidelines. Any amendments to these Guidelines, as well as the current policies and procedures, may be obtained at this time.

This informal review is to offer guidance prior to the initiation of preliminary design. An appointment for the pre-design meeting should be made at least one week in advance.

#### **4.2 THE PRELIMINARY SUBMITTAL**

Preliminary drawings, including all of the exhibits outlined below, must be submitted to the Committee after the pre-design meeting. Preliminary submittals must be submitted seven (7) calendar days in advance of a regularly scheduled meeting at which they will be discussed.

Preliminary submittals shall include:

- a) The Application Form, supplied by the Committee, with all information completed.
- b) A Site Plan, showing the graphic locations of the building envelope, the residence and all other buildings or major structures, driveway, centerline of adjacent streets, parking areas, patios, pools, walls, site grading including existing and proposed contours and topographic features, and elevations (datum) all of building floors, patios, and terraces, shown in relation to site contour elevations.
- c) Landscape plans.
- d) Roof Plans and Floor Plans. Roof Plans should show areas and heights of flat and sloped roofs, location of crickets and locations and heights of any roof mounted equipment and skylights. Floor plans shall show vertical elevations for each floor level change
- e) Exterior Elevations of all sides of the residence, at the same scale as the floor plans, identifying all structure heights, delineating both existing and proposed grade liens and designating all exterior materials and general colors. Color selections may be general and not specific for the preliminary submittal.

The Preliminary Submittal shall include one (1) 8 1/2" x 11" reduction of each of the required drawings in (b), (c), (d) and (e) above as well as any other drawings, materials, or samples requested by the Committee or necessary to explain the design.

A non-refundable Design Review Fee of \$200.00 (will be adjusted as deemed necessary by the Design Review Committee) for either a new home or for an addition to an existing home, must accompany the submittal. Checks should be made out to The Mill Creek Homeowners Association, Inc.

All accessory improvements contemplated on the lot must be shown on the Preliminary Submittal.

To assist the Committee in its evaluation of the preliminary submittal, the Owner shall, if required, provide preliminary staking of the locations of the corners of the residence or major improvements deemed by the Committee to be major and of such other locations as the Committee may request.

#### **4.3 NOTICE OF PRELIMINARY SUBMITTAL**

Personal reviews are provided only as a courtesy. Owners wishing a personal review are required to set up an appointment with the Design Review Coordinator, or designee. Personal appointments with the Association or Committee staff must be scheduled a minimum of two (2) workdays in advance and are subject to time availability. No drawings, photos, or information will be mailed, faxed or delivered to interested parties. Comments must be submitted in writing two (2) calendar days prior to the scheduled meeting dates stated on the notice.

#### **4.4 PRELIMINARY REVIEW**

The Committee will review the submittal for conformance to Mill Creek Design Guidelines and will provide a written response to the applicant. The Committee will exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, seals, materials, color, location on the Building Site, height, grade and finish ground elevation, and the schemes and aesthetic considerations set forth in the Design Guidelines and the other Mill Creek Documents. The Committee, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements.

#### **4.5 FINAL SUBMITTAL**

After preliminary approval is obtained the following documents, which clearly comply with, or satisfactorily resolve, the stipulations for preliminary approval, are to be submitted to the Committee for final approval. Final submittals must be made a minimum of eight (8) calendar days prior to a regularly scheduled meeting at which they will be discussed with a representative.

Final submittals shall include:

- a) The application form, supplied by the Committee, with all information completed.
- b) Complete construction documents for the residence including: all data noted in Section 4.3 paragraphs (b), (c), (e) and (f) and building sections as required to illustrate the residence and improvements; all utility locations, electric meter, transformer and exterior mechanical equipment locations; height of the top of all skylights shown on the roof plan locations and manufacturer's catalog cuts of all exterior lighting fixtures.

- c) Samples of all exterior materials and colors, and window and glass specifications identifying manufacturer's name, color, and/or number. Samples shall include Owner's, architect's and builder's name, as well as the lot and phase numbers. Samples of exterior materials such as stone should be submitted via the use of photographs that show color and coursing patterns.
- d) A complete landscape plan at the same scale as the site plan, showing: proposed contours and grading, if finished grading is different from that on the final site plan; locations and sizes of all trees and a list of all proposed plantings.
- e) An approximate milestone construction schedule indicating approximate milestone dates for: start of construction, completion of all construction, completion of landscaping and anticipated occupancy.

#### **4.6 FINAL SUBMITTAL APPROVAL**

Upon receipt of the complete final submittal, the Committee will review the submittal for conformance to the Mill Creek Design Guidelines, and to any stipulations by the Committee from the preliminary submittal and will provide a written response to the applicant. If the final submittal is approved, the Committee will provide an approval letter.

#### **4.7 CONSTRUCTION APPROVAL**

Obtaining plan check approval from the County, if required, is the responsibility of the Owner and/or builder. Construction shall be in accordance with the final submittal approved by the Design Review Committee.

#### **4.8 ADDITIONAL CONSTRUCTION AND/OR EXTERIOR CHANGES**

Any changes to the approved drawings before, during, or after the construction of an improvement must first be submitted for review to, and must be approved by, the Design Review Committee. Failure to do so shall result in the removal and reconstruction of nonconforming portions at the expenses of the owner.

#### **4.9 RESUBMITTAL OF DRAWINGS**

In the event of disapproval by the Design Review Committee of either a preliminary submittal or a Final Submittal, any resubmission of drawings must follow the same procedure as the original submittal and resubmittals of a Preliminary Submittal must be made at least seven (7) calendar days in advance of a regularly scheduled meeting at which it will be discussed.

#### **4.10 COMMENCEMENT OF CONSTRUCTION**

Upon receipt of approval from the Committee, the Owner shall commence the construction pursuant to the approved final submittal within one (1) year from the date of approval. If the Owner fails to comply with this paragraph, any approval given shall be deemed revoked unless, upon the written request of the Owner made to the Committee prior to the expiration of the one-year period and at the sole discretion of the Committee, the time for commencement is extended in writing by the Committee.

The Owner shall, in any event, complete the construction of the foundation and all exterior surfaces (including roof, exterior walls, windows, doors and all landscaping) of any Improvement on his lot within one (1) year after commencing construction except when such completion is impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, or natural calamities. If the Owner fails to comply with the paragraph, the Committee may notify the Association of such failure and the

Association, at its option, may complete the exterior in accordance with the approved drawings or remove the Improvement(s), and the Owner shall reimburse the Association for all expenses incurred in connection therewith. Or after Notice and opportunity for hearing as provided in the Bylaws, the Association may impose a fine of not less than \$100.00 per day (or such other reasonable amount as the Association may set) to be charged against the Owner of the Lot until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Board of Directors that such abandonment is for circumstances beyond the Owner's control. Such charges will be a Default Assessment and lien as provided in Section 6.3 and 6.4 of the Declaration.

#### **4.11 WORK IN PROGRESS — OBSERVATION FOR DESIGN CONFORMANCE**

The Committee may review all work in progress and give notice of non-compliance if found. Absence of such review and notification during the construction period does not constitute approval by the Design Review Committee of work in progress or of compliance with these Guidelines or the Declaration.

#### **4.12 FINAL CONSTRUCTION REVIEW**

- a) Upon completion of any residence or other improvement for which final approval was given by the Design Review Committee, the Owner shall give written Notice of Completion to the Committee prior to occupancy by the Owner.
- b) Within such reasonable time as the Committee may determine, but in no case exceeding twenty (20) calendar days from receipt of a required written Notice of Completion, the Committee may review the residence and/or improvements. If it is found that work was not done in strict compliance with the approved Final submittal, the Committee shall notify the Owner in writing of such non-compliance within thirty (30) calendar days of its receipt of the Owner's Notice of Completion, specifying in reasonable detail the particulars of non-compliance, and shall require the Owner to remedy the same.
- c) If the Owner has failed to remedy any non-compliance within thirty (30) calendar days from the date of the Committee's notice, the Committee shall notify the Owner, and may take such action to remove the non-complying improvements as is permitted in these Guidelines or the Declaration including, without limitation, injunctive relief or the imposition of a fine.
- d) The Association, upon request of the Committee and after reasonable notice to the offender and, if different, to the Owner, may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove any Improvement constructed, reconstructed, refinished, altered, or maintained in violation of these Covenants. The Owner of the Improvement will immediately reimburse the Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the Association within thirty (30) days after the Association gives the Owner notice of expenses, the sum owed to the Association will bear interest at the Default Rate from the date of the expense was incurred by the Association through the date of reimbursement in full, and all such sums and interest will be a Default Assessment enforceable as provided in this Declaration.
- e) If, after receipt of written Notice of Completion from the Owner, the Committee fails to notify the Owner of any failure to comply within the provided period following the Committee's review, the Improvements shall be deemed to be in accordance with the approved final submittal.
- f) If an Owner chooses to occupy the residence prior to final construction review by the Committee, he



may do so provided that the work is continued and the written Notice of Completion is given to the Committee within forty-five (45) days of occupancy. If improvements are not completed within forty-five (45) days of occupancy, the Committee reserves the right to take such action to cause the completion of the improvements as is permitted in these Guidelines or the Declaration including, without limitation, the imposition of fines.

#### **4.13 NON-WAIVER**

The approval by the Design Review Committee of any drawings or specifications for any work done or proposed, or in connection with any other matter requiring such approval under these Guidelines or Declaration, including a waiver by the Committee, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar drawing, specification, or matter whenever subsequently or additionally submitted for approval or of a non-conforming design or aspect that has not been identified earlier. For example, the Committee may disapprove an item not in conformance with the Guidelines shown on the final submittal even though it may have been evident and could have been disapproved at the preliminary submittal.

#### **4.14 RIGHT OF WAIVER**

The Design Review Committee reserves the right to waive or vary any of the procedures or standards set forth herein at its discretion, for good cause shown.

### **SECTION 5 CONSTRUCTION GUIDELINES**

In order to assure that the common area landscape of Mill Creek is not unduly damaged during construction, the following Construction Guidelines must be made a part of the construction contract documents for each residence or other Improvement. All builders and Owners shall be bound by these regulations and any violation by a builder or his subcontractors or suppliers or vendors shall be deemed to be a violation by the Owner of the lot.

The Committee has determined that policing of building sites during construction will be done by Committee Members, the Design Review Coordinator, the Association Manager and the project security guards (if any), acting as roving inspectors on their regular rounds. Violations to the construction regulations will be reported to the Association Manager who will send a letter to the builder involved. Copies of the letter will be sent to the lot Owner, the Design Review Committee and the Design Review Coordinator.

#### **5.1 PRE-CONSTRUCTION CONFERENCE**

Prior to commencing construction, the Owner and/or their representative should meet with the Design Review Coordinator or Design Review Committee to review the construction regulations, procedures and guidelines of this section. Builders will be required to fill out a form listing subcontractors and suppliers for access to the project.

#### **5.2 REFUNDABLE SECURITY DEPOSIT**

To assist the Committee in assuring compliance with these Regulations, each Owner, before beginning any construction, shall post a refundable security deposit in the amount of \$1,500.00 with the Association. Should it become necessary for either the Design Review Committee or the Association to remedy any

violation of these regulations, the costs of such remedy can be charged against the refundable security deposit.

The refundable security deposit will be refunded upon receipt of the Notice of Completion by the Owner and upon satisfactory completion of all requirements of the Final Construction Review.

### **5.3 OCCUPATIONAL SAFETY AND HEALTH ACT COMPLIANCES (OSHA)**

All applicable OSHA regulations and guidelines must be strictly observed at all times.

### **5.4 CONSTRUCTION TRAILERS, PORTABLE FIELD OFFICES, ETC.**

Any Owner or builder who desires to bring a construction trailer, field office, or the like to Mill Creek shall first apply for and obtain written approval from the Committee. To obtain such approval, the Owner or builder shall submit a copy of the site plan with proposed locations of the construction trailer or field office, the portable toilet, and the trash receptacle noted thereon. Such temporary structures shall be removed upon completion of construction. The construction trailer, if any, portable toilet, construction materials storage and dumpsters must all be contained within the property boundary or other areas specifically approved in writing by the Design Review Committee.

### **5.5 DEBRIS AND TRASH REMOVAL**

Builders shall clean up all trash and debris on the construction site at the end of each day. Trash and debris shall be removed from each construction site frequently and not be permitted to accumulate. Lightweight material, packaging, and other items shall be covered or weighted down to prevent their being blown off the construction site. In no case may debris and trash be allowed to exceed the top of the dumpster. The Committee reserves the right to apply fines to builders and Owners who fail to control debris from blowing or being disposed of on other lots or common areas. Builders are prohibited from dumping, burying, or burning trash anywhere on Mill Creek. During the construction period, each construction site shall be kept neat and clean, and shall properly be policed to prevent it from becoming a public eyesore or affecting other lots or any open space. Unsightly dirt, mud, or debris resulting from activity on each construction site shall be promptly removed and the general area cleaned up.

Dumpsters or other waste receptacles must be located within the property boundary and/or in areas specifically approved in writing by the Committee. For physically constrained sites, smaller dumpsters with more frequent removal may be necessary in order to fit the dumpster with the property boundaries.

### **5.6 WASHOUT AND CLEANING**

Washout of concrete trucks or the washout and cleaning of any equipment by masons, plasterers, painters, drywallers, etc. must be contained within the property boundaries. Washout or cleaning residue shall not be allowed to flow out of the Property Boundaries. Fines will be imposed against a builder and/or its builder's bond for any violations to this provision. The builder will also be responsible for restoring any damaged area to its natural state.

### **5.7 VEHICLES AND PARKING AREAS**

Construction crews shall not park on, or otherwise use, other lots or any open space. Private and construction vehicles and machinery shall be parked only within the property boundaries or in areas approved by the Design Review Committee. All vehicles shall be parked so as not to inhibit traffic on adjacent streets or damage the road shoulder vegetation.

Each Builder shall be responsible for its subcontractors and suppliers obeying the speed limits posted within Mill Creek. Fines may be imposed against the builder and/or its builder's bond for repeated violations. Adhering to the speed limits shall be a condition included in the contract between the builder and its subcontractors/suppliers.

### **5.8 EXCAVATION MATERIALS**

Excess excavation materials must be hauled away from Mill Creek and disposed of properly. Dumping of excess excavation materials within Mill Creek is prohibited, unless approved in writing, for clean fill in approved locations.

### **5.9 RESTORATION OR REPAIRS OF OTHER PROPERTY DAMAGE**

Damage and scarring to property other than the lot, including, but not limited to, open space, other lots, roads, driveways, concrete curbs and gutter, landscaping, utilities, and/or other Improvements, resulting from construction operations will not be permitted. If any such damage occurs, it must be repaired and/or restored, promptly at the expense of the Builder and/or Owner.

### **5.10 MISCELLANEOUS AND GENERAL PRACTICES**

All Owners will be absolutely responsible for the conduct and behavior of their agents, representatives, Builders, contractors, and subcontractors while on the premises of Mill Creek. The following practices are prohibited:

- a) Changing oil or otherwise servicing any vehicle or equipment on the site itself or of any other location within Mill Creek, other than at a location designated for that purpose by the Committee.
- b) Allowing concrete suppliers, plasterers, painters or any other subcontractors to clean their equipment other than at locations specifically designated for that purpose by the Committee. Residue from cleaning on the lot is not allowed to flow out of the Building Envelope, or in any way enter into drainage ways or common areas.
- c) Removing any rocks, plant material, topsoil, or similar items from any property of others within Mill Creek, including other construction sites.
- d) Carrying any type of firearms within Mill Creek.
- e) Using disposal methods or equipment or units other than those approved by Committee.
- f) Careless handling of flammable material.
- g) Use of, or transit over, any common area paths, trails, or ponds.
- h) No pets, particularly dogs, may be brought into Mill Creek by construction personnel. In the event of any violation hereof, the Committee, or the Association shall have the right to contact the county authorities to impound pets, to refuse to permit the builder or subcontractor involved to continue work on the project, or to take such other action as may be permitted by law, these Guidelines or the Declaration.
- i) Radios and other audio equipment playing music audible from the construction site within Mill Creek are prohibited. This restriction is to avoid impacting golfers as well as homeowners living

at Mill Creek.

- j) Catering trucks will not be permitted to use their horns; their schedules are routine enough for workers to be aware of break times. Also, trash generated by the purchase of items from these trucks and from construction shall be disposed of properly. Repeated problems with these requirements could result in the catering trucks being denied admittance to the property.
- k) Fires, for warming in winter or any reason.
- l) Storage or parking of non-construction related vehicles, trailers, boats, etc. at the construction site.

### **5.11 CONSTRUCTION ACCESS**

The only approved construction access to a lot during construction will be over the approved driveway location unless the Committee approves an alternative access point. In no event shall more than one construction access be permitted onto any lot.

### **5.12 DUST AND NOISE**

The builder shall be responsible for controlling dust and noise, including without limitation music from the construction site.

### **5.13 TEMPORARY CONSTRUCTION SIGNAGE**

In an effort to maintain the residential character of Mill Creek and to minimize the visual clutter that unlimited construction signage can cause, the Committee will require all temporary construction signs to meet the following criteria:

- a) Signs, if any, shall be single-faced, panel type, with a maximum area of 6 square feet. No additional signs may be attached to the main sign or be suspended below it, although separate sign panels that link together to form a single visual sign that meets all the requirements of this section will be acceptable. No lighting of construction signage is allowed.
- b) Only the following information may appear on a construction sign: builder's name and phone number, Architect's name and phone number, Owner's name and Financial Institution. The two phone numbers noted above are the maximum phone numbers allowed on the sign.
- c) All "For Sale", or similar language, or descriptive phrases such as "3-bedroom" signs must be approved by the Design Review Committee.
- d) Temporary construction signs must be removed at the time the house is substantially complete or when the Committee directs the sign to be removed.

### **5.14 DAILY OPERATION**

Daily working hours for each construction site shall be from 30 minutes before sunrise to 30 minutes after sunset unless other hours are designated in writing by the Committee. Without prior approval from the Committee, no exterior construction or construction causing noise audible from outside the residence shall be allowed on Sundays.