CROOKED CREEK BANNER ELK NORTH CAROLINA

DESIGN REVIEW GUIDELINES

Purpose:

The design guidelines shall govern the rights of an owner, developer, or other entity to construct, refinish, alter, or maintain any improvement upon, under or above any property in the Crooked Creek Development. The legal owner of the subject property is responsible for initiating and managing all activities associated with the construction, refinishing, alteration, and any improvement on their property unless a specific agent is legally designated to act on their behalf. The Design Guidelines shall not be inconsistent with the Declaration of Restrictions, Covenants and Conditions and shall in some cases, more specifically define and describe the design standards for the Crooked Creek Development

Responsibility:

A Design Review Committee shall be responsible for the establishment and administration of the Design Review Guidelines to carry out the purposes and intent of the Declaration. The Committee shall review, study and either approve or reject proposed new construction and proposed improvements on the property.

New Construction, Improvements and Alterations

I Site Survey

A site survey showing the proposed house and driveway location must be submitted to the Design Review Committee before any work may begin.

II Tree Removal (Revised April 2015)

NO CLEAR CUTTING OF THE PROPERTY IS ALLOWED. Tree removal shall be limited to removal of those trees necessary to achieve the construction of the dwelling and driveway, as well as an area on the sides and rear to accommodate lawn and garden areas as long as the requirements of Section V, Setbacks, of this document concerning a barrier is maintained. The front of the home may be cleared to the road to accommodate garden areas and lawn. However, every effort must be made to preserve and incorporate the trees on the lot.

The town of Banner Elk now has a Tree Preservation Ordinance. Before removing any trees (diseased or damaged) or any part of a tree, and or replacing a tree, a permit must be obtained from the town. Failure to do could result in a Civil Penalty

from the Town of Banner Elk. A copy of the permit must be submitted to the Design Review Committee before proceeding with any tree removal or replacement work.

III Grading

Measures shall be taken to return surface water to the street or natural drainage patterns. The builder shall be responsible for ensuring that surface water, both during and after construction, does not cause a problem for the adjacent properties. Builder shall be responsible for stabilizing the property with vegetation or other erosion control devices at the start of construction. The builder and owner shall also be responsible for maintenance and clean-up of erosion and wash down from the site. Grading of the site is not to be excessive and extensive cuts and fills will not be approved.

IV Driveways and Culverts

Any and all culverts must be constructed with head walls. Driveways should not exceed a twenty percent (20%) grade. Driveways shall be graveled and maintained as soon as possible after start of construction to stop erosion and spillage over to the road areas. ALL driveways shall be paved using either asphalt or concrete prior to completion of the home but may be deferred to the last item done.

V Setbacks

The Town of Banner Elk requires a minimum set back of twenty feet (20') from the property line in the front and ten feet (10') on the sides and rear of the home for our Property Zone Area. Section B and C (The Summit) of Crooked Creek is required to use at least this minimum. A natural vegetation barrier in this area shall be maintained from the Lot Lines with adjacent properties. The front of the home is exempt from the barrier if a lawn or garden is installed. Lawn and garden areas on the sides and rear of the property are approved as long as the vegetation barrier is maintained.

Section A, which is registered as Cluster Homes, is exempt from this requirement due to smaller lot sizes. The Cluster Homes will use a minimum set back of five feet (5') from the property line to the footprint of the house, including any decks. The Cluster Homes shall also maintain twenty feet (20') from the front of the house to the road surface.

VI Landscaping

All landscaping materials on the property shall be compatible with local natural vegetation pertaining to color, mass, and dimension. Prior to starting work, all <u>new construction</u>, and any plan to do a <u>MAJOR renovation of existing landscaping</u>

requires that a landscape plan drawn to a scale of one inch to ten feet (1":10"), prepared by a professional landscape designer/contractor with required setbacks, be submitted to the Design Review Committee for review and approval. As applicable, the plan should detail all changes to the current landscape, including what trees and/or plantings will be removed, a complete list of proposed new plantings, all beds, location of retaining walls, boulders, mulched areas, etc. The proposed planting list must include the location, type, size, quantity and proposed spacing of each. This is only to ensure the land is not left bare and unattractive and does not prevent the homeowner from designing and panting specific plants and gardens.

Prior to starting any clearing and/or excavation, assurances must be provided to the Design Review Committee that any required external third-party requirements have been satisfied. This includes any tree cutting permits from the Town of Banner Elk, "811-Dig Safely" surveys to locate underground cables, electrical wiring, conduits, etc. If any landscaping or new construction project requires a retaining wall, a copy of the County Retaining Wall permit should be provided to the Design Review Committee.

Owners upgrading their property with additional trees or plants and no excavation, additional fill dirt, or the removal of trees is involved, can proceed at the owner's discretion without approval of the Design Review Committee.

Section II of these Guidelines discusses the procedures for tree removal. Owners should also refer to the Banner Elk Ordinance Sections 152.150 through 152.170 regarding the cutting and trimming of trees on their properties. The ordinance is extensive, so if contemplating trimming or cutting down any tree on your property, the best course of action is to check with the Town Zoning Administrator to determine if a permit is needed. If the work it limited to cutting or trimming trees, a "Crooked Creek Property Owners Association Small Project Form" is not required, but a copy of the Town approve tree cutting permit is to be provided to the Design Review Committee.

In summary, yards and landscaping are to be maintained in accordance with the community wide standards of Crooked Creek Development.

VII Architectural

A. The overall house plan design shall be compatible with the home designs introduced by the Developer for that area of Crooked Creek and shall not include designs radically departing from the community theme. Specifically prohibited are designs and construction techniques such as log homes, modular or manufactured homes. Also Spanish, Mexican, Colonial design, a-Frame,

Round or Geodesic Domes or any home more than two stories above the foundation are not allowed. Roofs must have a minimum pitch of 6 to 12 (6/12) and no more than 12 to 12(12/12). Flat or tile roofs are not approved. Homes in the Cluster Home areas shall be in keeping with the cottage theme. Cottage style homes are not appropriate elsewhere in Crooked Creek.

The front of the home shall not exceed thirty feet (30') from ground to the ridge line of the roof. No structure shall be erected, altered, placed or permitted to remain other than one (1) single family detached dwelling not to exceed two (2) stories in height above the basement. A minimum of a one (1) car, attached garage is required. The Declaration states a dwelling shall contain a minimum of 1650 square feet of heated living space. However, this is the MINIMUM required and is not determinative of the actual square footage of approved structures. To maintain architectural harmony throughout the Crooked Creek development, a standard of approximately 2200 square feet of heated space has been established. The standard for homes in the area called "The Summit" is approximately 3,000 square feet of heated space. (ref. map on page 19) Garages, porches, patios, greenhouses, or other areas, including unheated basements or cellars shall not be considered floor space in meeting these requirements. In the case of a one and a half $(1 \frac{1}{2})$ story or two (2) story home, the main living level shall contain a minimum of 1250 square feet of heated living space. No carports are permitted. In accordance with town requirements, no home in Crooked Creek Zone may exceed forty percent (40%) of the lot. This requirement is waived for the Cluster Home areas due to lot size.

- C. The exterior material used should be consistent with house introduced by the Developer and generally should be natural wood or masonry, including cedar, stone, redwood, wood shingles, wood paneling dimensional lumber and Hardiplank, or similar material. This includes facia and soffit areas. Materials such as aluminum or vinyl, tile, all brick, or concrete are not acceptable. Stucco is acceptable only when used on foundations and shall be painted the house color.
- D. Gutters and down spout material shall be aluminum or a similar metal. The color of the gutters and down spouts shall be the same as the house trim or siding.
- E. Roof material shall be compatible with the materials introduced by the Developer. Acceptable materials include wood shingles, slate, fiberglass shingles, dimensional shingles, and asphalt shingles. Unacceptable roof materials include any type of metal, tile, flat or built up, or asbestos. Roof color shall be natural or dark. Light colored or unfinished roofs of any material are not acceptable.
- F. Foundations of block or concrete shall be veneered. Acceptable materials include brick, stone, stucco, or wood. Painted block foundations are not acceptable. Pier foundations are generally not acceptable except where applied to specific and limited situations and must be approved by the Committee before building. Wood lattice foundations are not acceptable except where applied to specific and limited situations such as below decks.
- G. Paint. Painted house color shall be muted earth tones and compatible with that introduced by the Developer. Section A, the Cluster Homes areas, should be painted similar to the adjacent homes. Bleaching oils or stains are acceptable. In the case of new homes, paint samples on a six-inch (6") piece of proposed siding must be submitted to the Committee for approval. House and window trim will be handled in a similar fashion. Paint color need not be submitted with the original building request but may be delayed until siding and trim material is on site. However, it must be submitted prior to painting, and there may be some delay of approval as the Committee reviews the color. The repainting of existing homes is excluded from this submission on siding if the home is to be repainted the original APPROVED color for the house. However, if the original color is not to be used, a sample of the paint on similar siding or wood must be provided. Unacceptable colors are any bright or high gloss color including but not limited to pure white. Finishes such as vinyl, aluminum, plastic, other metals, or the use of awnings is not acceptable.
- H. All propane tank(s), electrical, telephone and television service cable installations shall be underground. No exterior radio, television, microwave or

other antenna or antenna dish shall be permitted without the approval of the Design Review Committee, and must not be visible from the street, unless functionality cannot be obtained elsewhere.

- I. No signs of any kind shall be displayed on or from any portion of the property, including political, real estate signs and/or real estate information boxes or tubes, name signs or lighted signs, both movable and permanent, without the approval of the Design Review Committee.
- J. Garage doors shall be either wood or clad material and painted the approved house color. Garage doors matching the approved trim color are acceptable. Unclad metal doors, vinyl, and other synthetic materials visible from the outside, or colors other than specified above are not acceptable.
- K. No trash, ashes, garbage, or other refuse shall be thrown out or dumped on any land within the property. No burning or other disposal of refuse out of doors will be allowed. Each owner shall provide suitable receptacles for temporary storage and collection of refuse. All such receptacles shall be screened from public view and protected from weather, animals, and other disturbance. It is recommended that receptacles be stored in the garage or covered area to the rear of the dwelling.
- L. No temporary structures shall be permitted except as may be determined necessary during construction and specifically authorized by the Design Review Committee. Porta-Johns are approved and required during construction. Other architectural features or improvements such as, but not limited to, sidewalks, out buildings, fencing, gazebos, mailbox post with the exception of wooden posts typical throughout the development, and pools must be approved by the Design Review Committee.
- M. Playground/Sports Equipment. Due to the diversity of lot size, lot terrain and the desire to maintain the private wooded nature of Crooked Creek, there can be no blanket approval of sports and playground equipment. An exception can be applied ONLY for children's playground equipment. The following conditions must be met to obtain permission for playground Equipment.
 - 1. The equipment must fit harmoniously into the lot and environment.
 - 2. The installation cannot affect the privacy of the neighborhood.
 - 3. No plastic or metal equipment will be authorized. All equipment must be of wood construction and blend into the landscape.
 - 4. No clearing of trees can be made in the installation process.

If the exception is approved, the equipment will NOT be allowed to be a permanent part of the property. It must be removed, at owner's expense, if the property is sold or it no longer suits the need, i.e., children of the property owner (parents or grandparents) are grown or no longer reside on the property.

N. Grinder pumps are a requirement for the Crooked Creek area to tie into the Town of Banner Elk sewer system, except for the homes located on Mallard Court and Rabbit Run. Individual owners are responsible for the maintenance and repair of the grinder pump systems installed on their properties. It is recommended that owners arrange for periodic inspections of this equipment including the panel box and alarm mechanism. Several contractors are available, and their services range from conducting complete inspections to making any necessary repairs including pump replacements. During the inspection, it may be necessary for the owner to be present to run water through the system, otherwise an operable outside source of water such as a garden hose must be available. Included are: PlumbFast Plumbing, Linville- 828-742-1777; Water Management of North Carolina, Lenoir- 828-244-9765, C&D Septic Tank Services, Lenoir- 828-639-3034

Any make and model grinder pump may be used; however, the contractors recommend Zoeller or Liberty pumps.

O. Mailbox and Mailbox Post

- 1. Mailbox shall be black in color, or the color shall be approved by the Design Review Committee
- 2. Mailbox post shall be constructed of wood. Either 4-inch x 4-inch timbers or 6-inch by 6-inch timbers.
- 3. Mailbox post should be painted Olympic Pine* or the color shall be approved by the Design Review Committee.
- 4. If there is trim wood on the mailbox post, the trim should be painted Gobi Beige* or the color shall be approved by the Design Review Committee.
- 5. Unpainted wood posts are not acceptable.

*Note to the Design Review Committee – Olympic Pine & Gobi Beige paint will be supplied by the Crook Creek POA. These paints can be purchased at a Sherwin Williams paint store.

P. As stated in the recorded restrictive covenants, construction of the subject dwelling must be complete within one year from date of start.

VIII General Restrictions

These general restrictions augment and add to those contained in the Declaration Document. The restrictions apply during actual construction periods (new construction and for improvements and additions) as well as during the post construction period. This is not an all-inclusive list and is intended to highlight common conditions, actions and behavior generally associated with maintaining the desired appearance and architectural harmony of the property.

- A. No above ground fencing shall be allowed except that approved by the Design Review Committee. In no case is fencing allowed within fifty feet (50') of the street edge on corner lots. Approved fencing must be wood material or underground. Wherever fencing is above ground and visible from the street, it must be broken up with shrubs or trees. Dog pens may be built rather than fencing the entire lot but must have the same screening and approval requirements if above ground.
- B. No laundry or wash shall be dried or hung outside any building.
- C. No exterior horns, bells, or other sound devices, except security devices will be allowed on any portion of the property.
- D. No exterior fires will be allowed except within barbeque grills, exterior fireplaces and firepits. The location of the exterior fireplace or firepit must be approved by the Design Review Committee.

E. Parking Restrictions:

The intent of compliance with parking restrictions within Crooked Creek is to define authorized and unauthorized vehicles and to keep vehicles from illegally parking, specifically:

- Streets should be clear of vehicles at night
- Cars cannot park at any place where the standing of a vehicle will reduce the usable width of the roadway for moving traffic to less than 14 feet. Ref: Town of Banner Elk Traffic Code Section 72.02 (Q)
- Property owners are to park their vehicles on the prepared surfaces inside their garages, on driveways and on approved pullovers which are connected to those driveways. Parking on side or front yards is not permitted.
- No trucks, motor or trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailers, boats or boat trailers, or similar vehicles other than passenger vehicles, pick up and utility trucks with a capacity of half ton or less and SUV'S may be parked on the property

- except in an enclosed garage.
- Construction and service vehicles will be allowed during the normal course of business
- F. No animals, livestock or poultry may be kept on the property except dogs, cats, and other household pets. Leash Laws are in effect within Cooked Creek.
- G. Any damage to property, sidewalks, landscaping, and grassy areas due to vehicle traffic must be promptly repaired. This applies to damage done by personal vehicles as well as service vehicles.

IX Construction Regulations

Construction Bond. A Construction Bond of 3% of construction cost or A. \$6000.00, whichever is LESS, will be required for EACH NEW HOME or ADDITIONS to a home, with the exception of deck additions. This Bond will be collected at the time an application is made and will be kept in an account administrated by the Board of Directors. All requests to use these funds will be made from the Design Review Committee to the Board, which will authorize the spending of these funds. This Bond is to be used to repair out of compliance items such as siding, paint color, grinder pump installation and roofing if not the approved type or color. The request for out-of-compliance funds to the Board will only be made after written notification to the owner/contractor of the problem. Funds will be issued if the owner refuses to repair or correct out-of-compliance items, or the owner has declined to go through the appeal process, or the owner has unsuccessfully gone through the appeal process. Upon completion of the work and receipt of a request from the owner/contractor, and when the home is in full compliance, appropriate funds will be returned to the owner/contractor.

B. Architectural Fee

New Construction – A non-refundable fee of \$500.00, to be paid by the property owner, will be used by the DRC and Association to pay for any professional services, such as an architect, required to review and process the initial construction approval. Any changes that require additional consultation services by an architect or other entity will be subject to additional fees, but no more than the actual cost associated with the services.

<u>Additions</u> – An addition outside of the original footprint and elevation of the house (except deck additions) will be subject to a non-refundable architectural fee, if required by the Design Review committee, amounting to the actual cost of the architect's charges. This fee will be paid by the property owner.

- C. All decisions of the Design Review Committee may be appealed to the entire Board as outlined in the By-Laws. The request for an appeal hearing must be made in writing to the Crooked Creek Board of Directors within 14 calendar days of receiving the decision/disapproval from the Design Review Committee.
- D. No construction may begin without written approval from the Design Review Committee. Construction site must be kept cleaned, orderly and free from litter and debris. Trash containers, bins, etc., if not commercial waste storage bins, shall be emptied weekly or more often if they become full. At no time will any bin/container be allowed to overflow or rise above the sides. Any debris blown or otherwise carried to adjacent lots or the road shall be the responsibility of the owner/contractor. All containers must be on the property. This requirement includes any material spills, such as concrete, dirt, gravel, paint, or other building materials.
- E. Porta–Johns must be provided for each site or group of adjacent sites.
- F. All vehicles must be parked on the property or off the road sufficiently to allow easy passage for emergency or service vehicles. At no time will parking be allowed on both adjacent sides of the street.
- G. No work will be permitted to begin before 7:30AM or continue after 7:00 PM, Monday through Friday, or 8:00 AM through 5:00 PM on Saturday. No work is approved on Sunday.
- H. No burning of brush or construction materials will be allowed at any time.
- I. Concrete trucks, delivery trucks, dump trucks and/or paving trucks, or any other construction vehicles may NOT be emptied or cleaned within Crooked Creek.
- J. Any contractor, sub-contractor, or supplier or any of their employees whose conduct while within the Crooked Creek Sub-Division is deemed to be a nuisance shall be restricted from access to Crooked Creek. Contractors are responsible for the conduct of their sub-contractors and owners are responsible for the actions of their contractors.

X Application Process

All applications to build or remodel homes within Crooked Creek shall be made to the Design Review Committee using the committee's standard forms prior to starting construction. No work is to start until written approval is received from the Design Review Committee. The following is provided as an aid to gathering the REQUIRED documents.

- A. Exterior views showing front, both sides, and rear elevations with height measurements.
- B. A Site Plan showing the house footprint (Including decks) and Lot Lines. All exterior measurements as well as distances from the footprint, including all decks to ALL Lot Lines as well as Set Back from the road. The plan should also show the location of any retaining walls.
- C. Square footage of each heated level of the house (new homes).
- D. Clearing/Tree Removal Plan
- E. Driveway/Culvert Plan
- F. Grading Plan to include a notarized Avery County <u>Single Homesite</u> Grading Affidavit (Land Disturbing Activity) form
- G. Landscaping Plan
- H. Type of siding and trim to be used.
- I. Type and design of windows to be used.
- J. Type and color of doors to be used.
- K. Type and color of garage doors to be used.
- L. A sample of paint color(s) on a piece of siding and trim.
- M. Type of window trim and color. If different from house trim color, a sample must be provided.
- N. Manufacturer and model of grinder pump to be used.
- O. Roof Shingles type and color to be used.

Note: Pre-existing property conditions that do not meet the requirements of the latest DRG requirements are exempt from adhering to that revision.

Should a property owner replace/renew a property condition that is not in adherence to the DRG, then that condition shall be in adherence with the latest revision of the DRG.

Lot Development & House Construction Permit Application/Agreement

(Design Review Committee approval is required before site development and construction)

I Crooked Creek Lot & Development Infor	mation
Date	Lot #
Owner & Architect Information:	
(Owner)	(Architect)
(Street Address)	(Street Address)
(City, State, ZIP)	(City, State, ZIP)
(Telephone)	(Telephone)
General Contractor Information:	
(Name)	(NC License Number)
(Street Address)	
(City, State, ZIP)	
(Telephone)	(Cell Phone)

Lot Development & House Construction Permit Application/Agreement

II Plans & Construction Compliance Deposit

A. Plans	Type/Color	Approved	Date
House Plans			
Site Survey			
Site Plot			
Clearing/Tree Removal Plan			
Driveway/Culvert Plan			
Grading Plan			
Landscaping Plan			
Siding & Trim			
Windows			
Doors			
Garage Doors			
Paint (Siding/Trim)			
Paint (Window trim)			
Roof			
Site Cleanup Plan			
Roadway Protection			
Environmental Protection			
Grinder Pump			

Lot Development & House Construction Permit Application/Agreement

B.	Construction Compliance Deposit		
	Estimated Construction Cost \$ Compliance Deposit (3% x construction cost) \$ (The compliance deposit or \$6000.00, whichever is LESS, is required before start of construction)		
	Please make check to Crooked Creek POA and indicate FOR COMPLIANCE DEPOSIT		
	Payment: Date Check # Amount \$		
C.	Architectural Fee (non-refundable) \$500.00, to be paid by property owner. (See Design Review Guidelines, IX Construction Regulations, paragraph B.)		
	Please make the check to named architect		
	Payment: Date Check # Amount \$		
III	Applicant Declarations/Conditions		
	A. I/We verify that all information and plans provided on this application will be those used in lot development and construction and to obtain a town of Banner Elk, NC Zoning Permit as well as a County of Avery, NC Building Permit.		
	B. I/We agree to provide the additional plans and obtain approval for items called out in Section II of this document. I/We agree that construction activity cannot begin before written approval of the POA's Design Review Committee.		
	C. I/We agree to notify the POA's Design Review Committee at each stage listed in Section II for a compliance inspection. I/We agree that if there is a non-compliance item, construction cannot continue until it is resolved either with the Design Review Committee or through the Appeals Process.		
	D. I/We understand that if an item is not resolved with the Design Review Committee or through the Appeals process, Crooked Creek POA reserves the right to use funds from the Compliance Deposit to enter into contractual agreements with contractors or other vendors to bring the issue into compliance. If the funds are depleted, Crooked Creek POA has the right to hold the applicants liable for any unpaid balances necessary to obtain compliance.		
	E. I /We also understand that these funds will be used to offset any fines imposed by the Board of Directors.		

Lot Development & House Construction Permit Application/Agreement

I/We a	accept the above conditions.	
(Owner)		(Date)
(Gener	ral Contractor)	(Date)
	IV Cı	rooked Creek POA Declarations
A.	A copy of the Crooked Creek POdevelopment and constructions re	A Design Review Guidelines is included to assist you in plan quirements.
В.		of the Construction Compliance Deposit after all construction oproval, site is cleaned up and any damage to adjacent property
C.		iew Committee will perform compliance site inspections and on a timely basis upon notification of completion of each item
(Crost	ked Creek POA)	(Date)
(CIOOF	icu cicca i OAj	(Daic)

CROOKED CREEK CONSTRUCTION BOND REFUND REQUEST

Date			
Inspection Requested By			
Lot # Amount _		_	
Owner			
Mailing Address			
Make Check Payable to			
Inspection	Yes	No	N/A
Home Construction Complete			
Basic Landscaping Complete			
Paved Driveway Complete			
Culvert Complete (If Required)			
Grinder Pump Installed (If Required)			
Approved Paint, Siding, Trim & Foundation			
Approved Roof Color & Type			
Property Approved for Bond Refund	_	_	
Inspected By	D	ate	

Comments:

CROOKED CREEK PROPERTY OWNERS ASSOCIATION HOME IMPROVEMENT APPLICATION FOR DESIGN REVIEW COMMITTEE

Date:	Lot #:
Name:	
Address:	
Architect Address:	
D '11 N	
Builder Address:	
STRUCTURAL MODIFICATIONS (D	
Construction Compliance Bond (3% x 1) • Total Bond: \$	Project Cost or \$6000.00 whichever is LESS)
Architectural Fee – (non-refundable)	vill amount to the actual cost of the architect's he additions requested need an architectural review.
(See Design Review Guidelines, IX Cons	
REQUIRED DOCUMENTS Site plot with measurements to Lot Lines Addition/Modification drawings/elevation Siding type Siding, Trim & window trim color Roof Type & color	
APPROVED / DISAPPROVED (circle of	one)
DRC Member:	Date:

CROOKED CREEK PROPERTY OWNERS ASSOCIATION SMALL PROJECT REQUEST FORM

This form is to be used for small projects that do not involve new construction or significant alterations to existing property. Examples include but are not limited to re-painting exterior of home, decks and patios, fences, playground equipment, major landscaping, etc. Please submit the completed form to the Design Review Committee for review and approval.

Name:	
Address:	
Description of Project:	
Will a contractor work on any or all of the project? Yes / No	
If yes, contractor name:	
Estimated cost:	<u></u>
Estimated start and completion dates:	
Approved / Disapproved	
Date:	
Design Review Committee	

CROOKED CREEK BANNER ELK NORTH CAROLINA

