



# NEIGHBORHOOD DESIGN GUIDELINES

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## SECTION 1: INTRODUCTION

These Neighborhood Design Guidelines (Guidelines) are intended as an information resource for Owners of homes in the Village at Skyliner Summit at Broken Top (Village). These Guidelines describe the considerations the Neighborhood Design Review Committee (NDRC) will apply in reviewing proposed changes to the exteriors and landscape of your home. They also outline the procedures that are to be followed during the design review process. The Village is a sub-association of the Skyliner Summit at Broken Top HOA (Master), and these guidelines are subject to review and approval by the Master Design Review Committee and Board of Directors.

**1.01 Authorization:** The Declaration of Master Covenants, Conditions, and Restrictions (CC&Rs) for the Village states the following about the NDRC and its duties:

**1.01.1** *“No improvement shall be commenced on any lot or any modification to the exterior of any existing improvement until the design plans (including exterior elevations, color and/or materials, location on the lot and total square footage) of the proposed improvement have been submitted to and approved in writing by the Committee. Improvements shall be consistent with the Construction Requirements provided in Section 2 and any other design guidelines which may be established by the Committee and as may be amended from time to time.” (from Village CC&Rs Sec. 18A)*

**1.01.2** *“The Committee may, at its sole discretion, withhold consent to any proposed improvement if the Committee finds the proposed improvement would be inappropriate for a particular lot or incompatible with the design standards the Committee intends for the Village at Skyliner Summit.” (from Village CC&Rs Sec. 18C)*

**1.02 Purpose:** *“It is the intent and purpose of this Declaration to assure quality of workmanship and materials, to assure harmony of exterior design with the existing improvements and landscaping...” (from Master CC&Rs Sec. 6.1)*

Beyond the purposes stated in the CC&Rs, the highest priorities of the Neighborhood Design Review Committee are protecting property values and promoting the general livability of the neighborhood. The guidelines that follow are designed to promote these purposes.

**1.03 Previous Guidelines:** These Guidelines supersede all previously issued design and construction guidelines and resolutions issued by the Village Board or NDRC, but do not render invalid actions taken in accordance with any previous guidelines. Any Owner planning improvements is advised to check with the NDRC Manager for the most current copy of these guidelines. The Construction Requirements in Sec. 2 of the Village CC&Rs continue to be in force with respect to new construction, including replacement homes and additions.

**1.04 Non-Waiver:** Consent by the NDRC to any matter proposed to it or within its jurisdiction, or failure by the NDRC to enforce any covenant or restriction in the CC&Rs or these Guidelines, shall in no event be deemed to set a precedent, or a waiver impairing the NDRC’s right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent or to enforce any subsequent or similar violation of the above documents. No part of these Guidelines is intended to negate or reduce an owner’s responsibilities to the CC&Rs or other governing documents of the Village at Skyliner Summit at Broken Top HOA or the Skyliner Summit at Broken Top HOA.

**1.05 Enforcement:** These Guidelines are enforced by the Village NDRC and administered by the NDRC Manager. Owners may appeal decisions by the NDRC to the Committee.

**1.06 Severability:** If any provision of these Guidelines, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the remainder of these Guidelines shall be construed as if the invalid part were never included therein and such remainder shall be valid and fully enforceable.

**1.07 Non-Liability:** Neither the NDRC, any member thereof, nor agents of the NDRC, shall be liable to the Village at Skyliner Summit at Broken Top Homeowners’ Association, or to any Owner or other person for any loss or damage claimed on account of any of the following:

**1.07.1** Any action of or failure to act, provided only that the NDRC or member has, in accordance with the actual knowledge possessed by the NDRC or by such member, acted in good faith.

**1.07.2** The approval or disapproval of any plans, drawings and specifications, whether or not defective.

**1.07.3** The construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications.

**1.07.4** The development, or manner of development, of any property within Skyliner Summit.

Neither the NDRC nor any member thereof shall be liable to any owner, occupant, builder, or developer or any other persons for any damage, loss, or prejudice suffered or claimed on account of any action of or failure to act by the NDRC or a member thereof, provided only that the member has, in accordance with the actual knowledge possessed by the NDRC or by such member, acted in good faith. The scope of the NDRC's review is not intended to and shall not be construed to include any representations or warranties or conclusions regarding structural, geophysical, engineering, or other matters, including fitness for a particular purpose or habitability.

Approval by the NDRC of any improvement in the Village at Skyliner Summit at Broken Top only refers to the Village Neighborhood Design Guidelines and in no way implies conformance with local government regulations. It shall be the sole responsibility of the owner to comply with all applicable government ordinances or regulations, including but not limited to, zoning ordinances and local building codes. In the event of a conflict between these Guidelines, and government ordinances or regulations, the most stringent regulations shall apply.

**1.08 Responsibilities:** It is the responsibility of owners, their builders, contractors and/or other agents to read, understand, and comply with the both the Village and Master CC&Rs and Rules & Regulations, as well as the Neighborhood Design Guidelines (this document), and the requirements of the NDRC. At the sole discretion of the NDRC, a builder, contractor, or design professional may be required to submit a performance bond prior to beginning work at the project site, or during construction, if the NDRC determines that any of the above documents, or other requirements, are not being followed. The failure to provide a bond when requested may result in a stop work order. The performance bond, in whole or in part, at the discretion of the NDRC, shall be forfeited if a finding is made by the NDRC that the builder, contractor or design professional has violated any provision of the above documents or other NDRC requirements. The performance bond shall be in addition to any design application fee and deposit as required by the NDRC. Any portion of the bond not forfeited in accordance with this section shall be released to the builder, contractor or design professional after an on-site inspection and Final Release by the NDRC at the successful completion of the project.

**1.09 Contact Information:** The Neighborhood Design Review Committee and the Board of Directors can be contacted through the NDRC Manager serving the Village at Skyliner Summit at Broken Top (see page 1).

## **SECTION 2: PROPERTIES, PERSONS, & IMPROVEMENTS COVERED BY THESE GUIDELINES**

These Guidelines apply to the following:

### **2.01 Properties:**

**2.01.1** These Guidelines are binding upon all lots and homes in the Village at Skyliner Summit at Broken Top (Phases 1, 2, 7, 8, and 9: lots 51-172).

**2.01.2** These Guidelines also apply to the road-right-of-way between the street and the property line of private lots (the landscaping and maintenance of which is the responsibility of the adjacent owner, according to city code).

**2.02 Persons:** These Guidelines are binding on all owners, tenants, or other occupants, as well as all persons who design, construct, refinish, or alter any part of the exterior of any home or lot, or make other improvements upon any property that is subject to these Guidelines.

**2.03 Improvements:** The intent of these Guidelines is that any proposed exterior improvement (which includes modifications to an existing improvement) that would be visible from, or otherwise affect another lot, common area, or public right of way is subject to the review and approval of the NDRC, including:

**2.03.1** All construction of new or replacement homes, and additions to, or modifications of the exteriors of existing homes, including changes to materials or paint or stain color or gloss.

**2.03.2** The building of accessory structures, such as fences, decks, play structures, storage sheds, garden structures, and outbuildings, and additions to, or modifications of existing accessory structures.

**2.03.3** All landscaping, hardscaping, and irrigation done in connection with the construction of new homes and accessory structures or as part of making additions to, or modifications of existing homes or accessory structures.

**2.03.4** Changes to existing landscaping, including removing trees, shrubs, or lawns, or changing the location or dimensions of planting beds.

**2.03.5** Changes to existing hardscaping, including patios, walkways, curbs, sidewalks, driveways, retaining walls, fire pits, or water features.

**2.03.6** Other exterior improvements including, but not limited to, antennas, satellite dishes, active and passive solar applications, and exterior lighting.

No work on any improvement may begin without the required NDRC approval in writing and without displaying at the job site proper evidence of approval issued by the NDCR manager (a sign or approval form). (See the following paragraph for minor exceptions.) Any reference to remodeling in these Guidelines refers only to work that affects the exterior of the building; interior remodels that do not alter the exterior do not require approval.

#### **2.04 Projects Exempt from Design Review**

**2.04.1 Minor Landscaping:** Minor landscaping projects, such as adding or replacing plants, do not require NDRC review or approval, provided the project does not involve changes to hardscape, the removal of lawn or trees, or changes in the dimensions or locations of planting beds.

**2.04.02 Projects in Fenced Back Yards:** Changes to hardscape or landscape inside a previously-approved fenced back yard, do not require NDRC review or approval, provided the changes are not visible from, or otherwise affect other lots, common areas, or streets. All accessory structures and wood-burning fireplaces and fire pits require approval. All paint and stain requires approval. Removing qualifying trees also requires approval. Please refer to Section 4.01.16 for additional information.

### **SECTION 3: DESIGN STANDARDS**

While Craftsman, Prairie, and Northwest Lodge styles predominate in Skyliner Summit, there is no particular architectural style required. However, certain styles are so closely associated with other times and places that their use would distract from the harmony of the existing community. These styles include, but are not limited to: Log, Victorian, Colonial, Farmhouse, Ranch, Southern Plantation, Mid-Century Modern, and Santa Fe Adobe. Also, experimental or ultra-contemporary designs are not in keeping with the character of the development. Architectural harmony shall be achieved through the use of a controlled range of complementary materials and colors in light to dark ranges of earth tones. All elevations of a home shall be of the same architectural style and employ the same details for windows, doors, siding, and roofs.

**3.01 General Design Standards:** The following apply to all homes covered by these Guidelines:

**3.01.1 Design and Color Repetitions:** No repetition or near-repetition of the exterior design or color of any home will be permitted within the near proximity of a similar home, except as approved by the NDRC.

**3.01.2 Exterior Materials and Colors:** Exterior materials should generally be natural materials that are compatible with the native landscape and other homes in the neighborhood. Materials must be non-reflective and should blend with adjoining colors and textures.

NDRC approval is required for all exterior paint colors and gloss, and stain colors and transparency, including when repainting or re-staining using previously applied colors. Failure to obtain prior approval under this section will result in

substantial initial and daily fines under Tier-2 of the Schedule of Design Review Fees & Fines. Where an owner does not obtain prior approval and a color is subsequently disapproved by the NDRC, the owner must re-paint or re-stain in an approved color, at the owner's expense, within a period of time specified by the NDRC.

Exterior paint (used here to include opaque or solid stain) and stain (used here to include transparent, semi-transparent, and semi-solid stains that allow the grain of the wood to show through) must be in muted earth tones. "Earth tones" refer to a color scheme that draws from a natural palette of warm greens, browns, tans, grays, creamy-whites, and some rusty-reds. "Muted" refers to tones that emulate the natural shades found in earth, moss, trees and rocks. For guidance, please see the Sherwin-Williams "Warm Neutrals" color palette online (any store can match these colors), inquire at a local paint store, or call the NDRC manager to view samples in the office.

Among the colors that would not qualify as muted earth tones are cool colors (blues, purples, and pinks), pastels (including green or yellow), primary colors (including bright green, yellow, and red), and highly contrasting colors (including solid black and bright white; whites must not exceed an LRV [light reflectance value] of 73). High levels of contrast between body and trim colors should be avoided. Reflective sheens, such as semi-gloss and high-gloss finishes, are not allowed.

It is preferred that fences be stained and not painted. Semi-transparent stains in a mid-range color tone are preferred for fences, as they hold up better in Central Oregon's climate. Stain colors for fencing require NDRC approval. The use of paint and the paint color on fencing must be approved.

Any approved accessory structures must be stained in a wood finish or painted to match the home, as appropriate to the structure, and as approved by the NDRC.

Wooden elements on the house, such as railings, stairs, decks, knee-braces, outriggers, front doors, garage doors, shingles, and exposed beams, that were stained when the house was constructed originally, may not be painted without approval by the NDRC. Architectural features, such as dormers, belly bands, window trim, etc., that were originally painted in a trim or accent color, may not be painted in the main body color without approval by the NDRC.

Roofing colors must also be in the range of muted earth tones. Solid black or very light-colored roofing materials are not allowed.

**3.01.3 Reflective and Metal Surfaces:** Door frames, windows, and skylights made of aluminum or other metal parts shall be factory coated or otherwise bronzed, anodized or painted to create a non-reflective surface. Vinyl windows should be of a color that is compatible with other elements of the home. White translucent lenses on skylights should be avoided in favor of gray or clear finishes.

**3.01.4 Exterior House Lighting:** Exterior light fixtures with glass or plastic panels must be sufficiently diffused so that the bulb is not distinctly recognizable from a neighboring property or common area, or produces excessive glare to pedestrian or vehicular traffic, or to neighboring properties, as determined by the NDRC. Bare bulbs, fixtures with transparent (clear or colored) panels, or fixtures with openings that expose large areas of a bare bulb in the horizontal plane, are not permitted. The lowest-wattage bulb that will safely light the area should be used; bulbs greater than 60 watts are highly discouraged. Certain light fixture designs may produce excessive glare at higher wattages, so wattage (or lumen) limits may be applied in certain cases.

Ornate lighting fixtures and colored lights are prohibited, including lighting sources with unusual color characteristics, such as high-pressure sodium, mercury vapor, florescent, metal halide, or other similar non-incandescent sources. In addition, all exterior lighting must comply with the City of Bend's lighting ordinance, which calls for lighting to be "directed onto and confined to the property from which it is generated..." (by use of) "a shielding method to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties."

Leaving exterior house lights on all night is discouraged, and where lights turn on automatically, a timer shut-off should be used, rather than a light-sensitive shut-off. Under certain circumstances, excessive lighting might reasonably be considered a nuisance by neighboring owners, and the owner may be required by the NDRC to take corrective measures. This is best avoided by considering in advance how the fixture's design, light coverage, bulb wattage, or hours of operation would affect nearby homes.

**3.01.5 Holiday Lights and Decorations:** Holiday decorations and lights, including the lighting fixtures, should be removed by November 15<sup>th</sup> following Halloween and by January 31<sup>st</sup> following the December holiday season. Strings of white lights on homes, including those outlining the roofline, or in front-yard trees or shrubs, will be considered holiday lighting subject to the same time limits. White mini-lights or café lights are generally allowed on rear decks and patios, as long as there are no complaints from neighbors. These lights should not be used every night, nor left on all night.

**3.01.6 Floodlights and Spotlights:** Floodlight and spotlight fixtures (other than down-facing can lights) are generally discouraged, and require NDRC approval because they are likely to violate the city’s lighting ordinance, noted above. Where approved, the fixture shall use a motion sensor to turn the light on and off, and the motion sensor must not detect movement on an adjacent lot or common area, or on a public sidewalk or street, and the sensor must turn the light off in a reasonably short period of time.

**3.01.7 Fences:** Fencing, and the finish and color applied to it, requires prior NDRC review and approval. Fencing shall not exceed six feet in height measured from existing natural grade, and should be designed to appear as an extension of the architecture or as approved by the NDRC. No fencing is allowed in the front yard, that is, forward of the front corners of the house; this includes fences made of any material, fence segments, and hedges (a line of closely spaced shrubs or trees planted and trimmed to form a barrier). Wooden structures are recommended. Chain link or wire fencing is prohibited. The preferred style of fence has the following characteristics: cedar, shadowbox, solid-board or board-on-board, exposed posts, top and bottom rails, post-and-cap or posts with tapered or beveled tops. Other styles may be approved, depending on location and visibility.

**3.01.8 Retaining Walls:** Retaining walls may be constructed of rock, rock veneer, concrete, or concrete masonry units; however, all exposed concrete wall surfaces and edges shall be treated with an approved finish, such as stone veneer. Retaining walls must meet City of Bend code requirements.

**3.01.9 Patios, Steps and Paths:** Excessive areas of pavement are discouraged. Materials for driveways, patios, steps, paths and other areas should have dull, non-reflective surfaces and colors that blend with the natural surroundings.

**3.01.10 Accessory Structures, Satellite Dishes, and Other Exterior Improvements:** The installation of decks, patios, screens, storage sheds, outbuildings, play structures, sports apparatus, canopies, arbors or other built, assembled, or installed improvements must have prior NDRC review and approval. Wooden structures, where appropriate, are recommended. No permanent play apparatus or other accessory structure shall be permitted between the front of the house and the street. Prefabricated or “kit” sheds, or other similar structures, will be considered on a case-by-case basis as an accessory structure and, if approved, must be painted to complement the home. Over-the-air antennas are subject to NDRC approval. Satellite dishes may not be mounted on the street-side of a home unless there is no other location that would provide an acceptable signal. If there is no other suitable location, the owner must contact the NDRC Manager in writing, with a statement from the installation technician that other locations were considered, and that the installation location visible from the street was the only possible location where an acceptable signal could be received.

**3.01.11 Outdoor Storage and Service Areas:** Outdoor storage and service areas for trash containers, firewood, or maintenance or service equipment such as lawnmowers and snow blowers, shall be screened from all adjacent properties and public areas by a wall of the same material as the house or by a fence, neither of which can exceed six feet in height, encroach in the setbacks, or be placed forward of the front corners of the house without NDRC approval.

**3.01.12 Outdoor Spas and Swimming Pools:** Spas, hot tubs, swimming pools, and related equipment shall be screened and shall be architectural extensions of the house through the use of walls or courtyards. Above grade swimming pools are not allowed. Covers such as inflatable bubbles are not allowed.

**3.01.13 Heating and Cooling Equipment:** No roof-mounted or wall-mounted heating or cooling equipment is permitted, except for approved solar energy installations. Any exterior heating and/or cooling system components shall be at ground level, adjacent to the residence, screened from view of the street or neighboring properties, and shall not encroach in the setbacks. The equipment should be located, to the extent practicable, to minimize sound intrusion on adjacent properties and the common areas. The use of window air conditioning units is prohibited in street-facing windows and may be disallowed by the NDRC in other specific locations based on sound intrusion onto adjacent properties.

**3.01.14 Solar applications:** All active and passive solar installations are subject to NDRC review and approval. For the purposes of this section, a “solar energy system” is any solar collector or other solar energy device or any structural design feature of a building whose primary purpose is to provide for the collection, storage, or distribution of solar energy for space heating, space cooling, electricity generation, or water heating.

Solar power generating systems and solar water heater systems must be designed and installed by qualified, Oregon-licensed solar contractors. A solar energy system used to produce electricity, such as photovoltaics, must meet all applicable safety and performance standards established by the Oregon Solar Installation Specialty Code, the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories, such as Underwriters Laboratories. Solar water heating systems must also be certified by the non-profit Solar Rating &

Certification Corporation (SRCC) or other nationally recognized certification agencies and be in compliance with jurisdictional regulations.

In accordance with the CC&Rs' restriction on business activities on residential lots, all solar energy systems must be designed to meet only the power, heating, cooling, and/or hot water needs of the home's occupants. In keeping with the intention of the CC&Rs that utility infrastructure not be placed on the street-facing side of the home, solar installations must be on the roof of the home or attached garage, facing the side or back property lines. No solar devices shall be mounted on the ground or on detached out-buildings.

If a licensed solar contractor can demonstrate that a side or rear location does not achieve a Total Solar Resource Factor (TSRF) of at least 74%, and that a street-facing location does, the NDRC may grant an exception and allow the street-facing installation. The TSRF values used must be the lowest of at least four measurements made at different locations within each of the alternative arrays.

As part of its review, the NDRC may require or obtain an independent evaluation of any metrics used to substantiate a claim that a side- or rear-facing installation is not viable. In evaluating design plans, the NDRC will work with owners to arrive at a design that is viable, while being consistent with community aesthetics; this may or may not result in optimal technical efficiency or the homeowners' ability to qualify for financial incentives.

Solar panels and collectors must be mounted parallel to the roof pitch, with at least one side parallel to the roof eave and/or ridge. All equipment and mounting hardware must be at least 12" from the side and top edges of the roof and 36" from the roof eave. Roof-mounted equipment must be installed contiguously, and in a size, number, arrangement, and total square footage that is proportionally appropriate for the size and shape of the part of the roof on which it is mounted. The equipment may not occupy more than 40% of the total roof area of the home. All roof-mounted equipment must be non-reflective and be entirely black in color or the same neutral color that is most compatible with the color of the home's roofing materials. All pipes, wires, support structures, meters and control devices should be concealed within the panel installation and home to the extent feasible, except for required DC-disconnects; only minimal exterior wires or conduits required to make necessary connections may be visible and must be painted to match the adjoining surfaces of the home.

All exterior solar equipment must be properly maintained, along with the roofing material under the solar equipment; any equipment that becomes inoperable or which is not used for an extended period must be removed. In keeping with the prohibition on signage in the CC&Rs, solar components mounted on the exterior of the home may not display company names or logos that are visible from any street or adjacent property, and no other solar company signs shall be displayed anywhere on the property.

Requirements for an application to the NDRC for review of a solar energy system: submission of a plot plan drawn to scale and specifying the project's dimensions and minimum setbacks from the edges of the roof, and showing any exposed wiring or piping; a detailed description of the proposed materials, including the dimensions, number, and color; a photograph of the relevant home elevation with the proposed installation superimposed; and industry-standard metrics regarding the performance and efficiency of the proposed system.

**3.01.15 Dog Runs:** Dog runs may not be installed without prior NDRC review and approval. To minimize the impact of noise and odor to adjacent properties, the NDRC will evaluate the location and proximity to adjacent homes, and will carefully consider the environmental and aesthetic merits of location and the size of runs, and survey surrounding neighbors. Below-ground "Invisible Fences" are encouraged.

**3.01.16 Views:** Proposed improvements (including landscaping) shall not block or otherwise substantially diminish the views from existing homes or home sites, as determined by the NDRC. In addition, the NDRC shall consider how the improvement itself appears when viewed from other lots, common areas and public streets.

**3.01.17 Garage Windows:** Garage windows facing the street (except those in garage doors) shall have a covering if items in the garage are easily visible from the street.

**3.02 New Construction Design Standards:** The following apply to any construction on all properties covered by these Guidelines, including new or replacement homes, additions, remodels, repairs to damage from fire or natural disasters, and accessory structures:

**3.02.1 Code Compliance:** All construction must comply with City of Bend codes and be completed under city-issued permits, where required.

**3.02.2 Setbacks:** Front-, rear- and side-yard setbacks are City of Bend setbacks, unless modified by the NDRC. NDRC-modified setbacks are more restrictive than the city's and run with the land. The NDRC may also consider pre-existing or site-specific conditions on the subject lot or adjacent lots, such as the preservation of key "legacy" trees and view corridors, in determining its modified setback. Buildings, rooflines, eaves, decks, driveways, retaining walls, fill dirt, drainage control, water features, spas, swimming pools, mechanical equipment, or other structures or improvements shall not encroach in the setbacks without NDRC approval. Minimum setbacks shall be: 18 feet from front lot line to garage face if front-loaded; 12 feet from front lot line to front porch or front of the house if there is no porch; 5 feet from side lot lines to the sides of house for interior lots and 10 feet for corner lots; 5 feet rear lot line to back of house or if garage is alley-loaded, then 10 feet from rear lot line to garage face.

**3.02.3 Floor Area:** Total floor area of the main structure, exclusive of open porches and garages, shall be no less than 1,200 square feet for a one-story or 1,600 square feet for a two-story dwelling.

**3.02.4 Siding:** Cedar siding and Hardie-brand lap siding, shingles, panels, and trim boards shall be approved cladding materials.

**3.02.5 Roofing:** Roofing shall be architectural composition having a 25-year guarantee.

**3.02.6 Garages:** Each residence shall have an enclosed garage for at least two vehicles; garages shall not be converted to living space if this minimum would not be met. Front-loaded garages shall be flush or set back from the home. Carports are prohibited, including temporary coverings. In the interest of safety and neighborhood appearance, residents are encouraged to park at least one vehicle in the garage.

**3.02.7 On-Site Parking:** Unless approved by the NDRC, driveways and parking areas off of the driveway shall not encroach in side-yard setbacks.

**3.02.8 Chimneys:** Due to the extreme fire danger usually present in this region, all chimneys shall be equipped with U.L. or I.C.B.O. approved spark arresters.

**3.02.9 Mailboxes:** The Postal Service requires the use of gang mail boxes mounted near the entrances to the subdivision. Individual mailboxes or newspaper holders on lots are not allowed. Personal notices and solicitations are not allowed on the mailboxes or the kiosks. Defacing the mailboxes with graffiti, stickers, etc., is not allowed (and is a violation of federal law).

**3.02.10 Prefabricated Buildings:** Any building that is constructed off-site and requires transportation to any lot, whole or in partial assembly, is prohibited; this includes mobile homes, stock modular buildings, or any other structures requiring transportation in a partially completed state and set up on-site.

## **SECTION 4: LANDSCAPING STANDARDS**

All landscaping in the Village at Skyliner Summit at Broken Top is expected to present a neat and pleasing appearance from other lots and public areas, with designs that take into consideration the special characteristics of the site and the existing landscaping of adjacent homes. Consideration should also be given to design elements that minimize fire danger in the area, discourage regular and noxious weeds, and maintain view corridors for other homes.

**4.01 General Landscaping Standards:** The following apply to all properties covered by these Guidelines:

**4.01.1 Goals:** Landscaping designs should emphasize features of natural Northwest and Central Oregon landscapes, while presenting a "finished" appearance, as opposed to an unkempt, wild or weedy look, even where native elements are used. Designs should also be harmonious with established areas in the neighborhood, though variations from lot-to-lot are welcome.

**4.01.2 Lawns:** Lawns should be established using sod, and must be maintained with regular irrigation, mowing, edging, fertilizing, and de-thatching. Artificial turf is not allowed. NDRC review and approval of new, professionally-prepared landscaping and irrigation plans is required before killing or removing a lawn in order to create a xeriscape.

**4.01.3 Planting Beds and Xeriscaping:** Whether adjoining areas of lawn or encompassing an entire landscape (often called xeriscaping), non-turf areas must adhere to the following guidelines: At least one-third of non-turf areas must be filled with living plants, arranged in an attractive mix of perennials, shrubs, trees, and decorative grasses; no more than half of the space occupied by these plants should use perennials that are cut back in the winter; the remaining planted space (at least one-sixth of the total area) must use trees or shrubs (such as evergreens or flowering bushes) and

decorative grasses that retain some volume all year. No more than one-third of non-turf areas may be covered with hardscape (sidewalks, stone or rock paths, decorative boulders, pavers, etc.). The remaining non-turf area must be covered with ground-cover plants or mulch made from natural products (no synthetics). Shrubs and decorative grasses must be kept trimmed to keep them off of curbs and sidewalks and to comply with fire-fuel standards. Xeriscaping designs similar to those common in the Southwest, with large areas of rock or gravel, are not allowed. Xeriscaping plans must include water-saving irrigation methods and the use of soil amendments, both of which are considered critical to the health of xeriscapes in Central Oregon.

**4.01.4 Native Landscapes:** The use of native plants in non-turf planting areas is encouraged, but owners should be aware that such areas generally require active planting, irrigation, and maintenance, and should not be considered maintenance-free. Native fescue grasses should be transplanted from the forest or nurseries, and existing native shrubs must be trimmed and thinned to keep them off of curbs and sidewalks and to comply with fire-fuel standards.

**4.01.5 Fire-fuel Reduction:** These standards apply to both vacant and developed lots. Dead fuels, such as brush, down trees or branches, accumulations of down litter, and saplings, should be reduced, thinned, and removed. Stands of small suppressed trees must be aggressively thinned. Large brush fields should be separated horizontally so as not to be continuous, with increased spacing on slopes. Excessive brush removal on slopes may lead to unintended future erosion and should be avoided. Ladder or “understory” fuels must be eliminated or modified in order to vertically separate surface fuels from fuels in canopies; ladder fuels include brush, small trees under mature trees, and some low-hanging branches on trees (depending on surface fuels within the drip line). When removing fire fuels, owners must comply with federal, state, and local regulations, and should keep soil disturbance to a minimum to avoid erosion and incursions of weeds.

**4.01.6 Plant Selection:** The functional uses of plant material should include consideration of seasonal shade from deciduous trees, screening of undesirable views, and framing certain views. The composition of plant materials should include consideration of present and mature size, background and foreground balance, relationship to the home, the effect on neighboring homes, and judicious use of color and texture. As part of the review process, the NDRC will consider how these factors affect not only the subject property, but also those nearby lots and common areas that would also be affected by the plant selection and placement, including the impact on views and solar access. Owners may be required to remove plantings that the NDRC determines violates these standards.

**4.01.7 Non-compatible Species:** The introduction of non-compatible or invasive species, as determined by the NDRC, is prohibited. Agricultural grasses, which are fire-prone, should not be planted and must be removed where they exist (drought-resistant decorative grasses are allowed).

**4.01.8 Weed Prevention:** Because of the fire potential and unappealing appearance, weeds should be cut or pulled regularly on both improved and unimproved lots during the growing season. To prevent the growth of noxious weeds and other opportunistic species, bitterbrush, sage and other native plants should be retained wherever possible, particularly adjacent to rock outcroppings, on steep slopes, and in similar areas where grasses or other ground covers would be inappropriate. Owners are subject to city and county regulations regarding noxious weeds, and are solely responsible for their removal on their lot.

**4.01.9 Preservation of Native Features:** The removal of native rock outcroppings or trees greater than six (6) inches in diameter or nineteen (19) inches in circumference (measured 54 inches off the ground) requires NDRC approval; significant fines apply to unauthorized removals. Trees and rock outcroppings to be preserved shall be protected during construction with flagging and temporary fencing. For trees, the fencing is to be placed beneath the outer drip line of the tree, to assure that no grading takes place within the drip line. Exposing or filling over tree roots is prohibited.

**4.01.10 Parkways and Road Right-of-Ways:** Under city ordinances, the right-of-way area (the parkway strip) between the owner’s property line and the street is the responsibility of the owner to plant, irrigate, and maintain, in compliance with these Guidelines, and in a manner consistent with the other homes in the neighborhood. This includes maintenance and irrigation and, when necessary, replacement of sidewalks and curbs. Any trees planted in the parkway that become diseased or die must be replaced at the owner’s expense.

**4.01.11 Irrigation:** To allow all existing and new landscaping to thrive, each landscaped site shall be fully irrigated with an underground sprinkler system with automatic controls. Sprinkler heads should generally be of the “pop-up” design or discretely located, and black risers should be used. Sprinkler systems shall be utilized as needed to maintain active growth and healthy green color for all plant materials, except when dormant in winter, unless such use is regulated by the City of Bend. The city requires that automatic controls must be set to the “Odd 31” day cycle for homes with odd-numbered addresses (no watering occurs on the 31<sup>st</sup> of the month) and to the “Even” day cycle for homes with even-numbered addresses. Above-ground hoses and sprinklers are not generally allowed as a routine means of watering,

though they may be used in limited circumstances on a temporary basis, for example, to establish native vegetation in an area that will not subsequently require regular watering.

**4.01.12 Water Features:** All proposed water features shall be submitted for approval and shall be shown on the site plan and the landscaping plan. All areas of the water feature shall be covered with materials, such as river rock, so that the liner or lining material is not visible. Sound intrusion from water features onto adjacent properties will be taken into consideration by the NDRC.

**4.01.13 Landscape Lighting:** Decorative landscape lighting is generally discouraged and all such lighting must be approved by the NDRC. In general, lighting used for yards and driveways should be used sparingly to highlight select landscape elements or to promote safe passage to and from the home. Where allowed, the lighting must not shine, glare, emit direct illumination, or cast a shadow onto adjacent property, and should be directed downward and not illuminate streets, adjacent properties or open space areas. Up-lighting intended to highlight part of a building or landscaping must ensure that the light distribution from the fixture is effectively contained by an overhanging architectural element or landscaping element and does not shine beyond the intended target, including into the night sky. All up-light fixtures shall be installed in a manner that reduces the visibility of the source of the light. Landscape lighting may not be left on overnight, and must be on timers, with on/off times subject to regulation by the NDRC. The exception is solar-powered, single bulb LED lights, which meet all of the other above requirements, and are used sparingly to light walkways for safety purposes.

**4.01.14 Outdoor Ornamentation:** Placing, erecting, constructing or allowing any man-made ornaments, sculptures, artwork, signs, equipment, relics, flagpoles, machinery, or other such items is prohibited unless they are included in a landscape plan approved by the NDRC. Any ornamentation or equipment which is to be attached to or a part of an approved structure or deck shall be submitted for approval by the NDRC.

**4.01.15 Fire Pits:** Due to the extreme fire danger usually present in this region, exterior wood-fired fire pits and fireplaces are generally discouraged. The NDRC will consider proposals that meet code requirements on a case-by-case basis. Any approved structures must use spark-arresting screens.

**4.01.16 Private Areas:** Private areas are those areas that are located within walls, courtyards, or other structures and are not visible from the street, or adjacent properties. NDRC approval is not required for improvements within these areas that are only visible from within the private areas, provided that only non-invasive plant materials are used and the changes do not otherwise affect other lots, common areas, or public rights-of-way. Accessory structures, wood-fired fire pits and fireplaces, the removal of qualifying trees, and changes that affect drainage patterns must be approved by the NDRC.

## **SECTION 5: CONSTRUCTION AND LANDSCAPING RULES**

**5.01 Responsibility:** Owners are responsible for the actions of their contractors, subcontractors, and suppliers with respect to these rules and those in the Village Rules & Regulations. Please contact the NDRC Manager for a copy of the Rules & Regulations.

**5.02 Authorized and Unauthorized Work:** No improvements to the exteriors of homes or to lots shall be constructed or installed without written approval from the NDRC. Owners must display at the job site proper evidence of approval issued by the NDRC Manager (a sign or approval form). Unauthorized work is subject to fines and a stop work order.

### **5.03 Safety and Protection:**

**5.03.1 Adjacent Properties:** Adjacent properties (including common areas) may not be used for access to any construction or landscaping site without a plan approved by the NDRC, and may not be used as a parking or staging area by any contractor or subcontractor working on the job site. In the event of damage to adjacent property, the owner of the property where the construction is taking place shall be held responsible for restoration of the affected property. If common area is disturbed, the HOA's landscaping contractor will evaluate the damage, propose a restoration plan, and upon approval of the NDRC Manager, carry out the plan, the cost of which will be assessed to the owner.

**5.03.2 Protection of Existing Features:** Existing trees and rock outcroppings to be preserved shall be protected during construction with flagging and temporary fencing. The fencing to protect preserved trees shall be placed five (5) feet from, and around the bases of the trees, to assure that no grading takes place within an existing drip line. Exposing or

filling over tree roots shall be strictly avoided. Removal of existing trees greater than six (6) inches in diameter or significant rock outcroppings requires prior approval by the Design Review Committee.

**5.03.3 Construction Fencing:** Plastic or similar fencing (preferably in black or green, rather than orange) shall be placed along the side and rear property lines to avoid grading or the placement of materials or debris on adjacent lots or common area. If it is necessary to access a portion of the lot from an adjacent lot or common area, a specific plan must be submitted for approval by the NDRC and relevant neighbors, and if approved, a “gate” must be created at the approved location, and all entry and exit to the specified area must be through that location. At the completion of construction, all temporary fencing must be removed satisfactorily.

**5.03.4 Blasting:** The NDRC shall be notified two weeks in advance of any planned blasting, and documentation of appropriate approvals from the city and county shall be provided. Blasting may be done only by licensed demolition personnel, with all requisite insurance coverage as mandated by county and state statutes specific to the blasting activity at Skyliner Summit. The NDRC shall have the authority to require written documentation of anticipated seismic effects, with assurances that such effects will not be injurious to other persons or properties, public or private, and that all appropriate safety measures have been utilized.

**5.03.5 Intoxicating and Controlled Substances:** The use of alcohol, marijuana, or any controlled substance by a contractor on any construction site or common area within Skyliner Summit is prohibited.

**5.03.6 Parking:** Construction workers’ vehicles should be parked on one side of the street only, near the job site, so as not to impede visibility or traffic flow. State law and HOA rules require that all vehicles be parked in the direction of traffic. Construction trailers parked on the street are subject to the 24-hour rule; if trailers need to be parked for a longer period, they should be on the property or an exemption must be requested from the NDRC Manager.

#### **5.04 Delivery and Storage of Materials:**

**5.04.1** All construction and landscaping materials must be delivered upon the respective owners’ property, if possible, and if not, must be removed from the street within 24 hours. If left in the street overnight, the material must be marked with tape or traffic cones containing reflective surfaces and must not extend further than eight (8) feet from the curb; at existing homes, all materials must be used or out of site within ten (10) working days from delivery or approval must be obtained from the NDRC Manager for an extension; all materials must be secured from wind, animals, etc., and the owner is responsible for any cleanup required by the delivery.

**5.04.2** If any construction or landscaping project is interrupted for more than ten (10) working days for any reason, all materials must be stored securely somewhere other than in front of the home (in the garage, off-site, or in back of the home and covered by earth-tone-colored tarps), the site must be cleaned of any trash and construction debris, any holes or other threats to safety must be covered or secured, and the grounds must be left in a “raked clean” state.

**5.04.3** Adjoining lots or common area shall not be used by construction or landscaping workers, vehicles, or equipment, or for the delivery or storage of building or landscaping materials or debris.

#### **5.05 Construction Trash:**

**5.05.1** Owners or their contractors performing work upon any lot or home shall furnish trash containers and at all times keep the premises free from the accumulation of trash and scrap caused by construction or landscaping.

**5.05.2** Trash shall not be allowed outside a designated trash and scrap area; any trash that extends beyond the designated area shall be cleaned up immediately; any on-site burning of trash and scrap is prohibited.

**5.05.3** Upon completion of the work, all remaining trash and scrap, as well as tools, construction equipment, machinery, and surplus materials shall be removed from the site in a timely manner.

#### **5.06 Noise:**

**5.06.1** The use of power tools and equipment that can be heard across the property line, including, but not limited to saws, air compressors, jack hammers, power lawn mowers, weed eaters, and blowers is limited to the hours of 8:00 a.m. to 8:00 p.m. This rule is more restrictive than the City of Bend’s rule, but does not prohibit other construction activity (set-up, deliveries, indoor work, etc.) during other hours approved by the city. Snow removal equipment is exempted from this rule when being used to remove snow.

**5.06.2** No exterior work may be performed by contractors on Sunday, except for emergency repairs. Snow removal equipment is exempted from this rule when being used to remove snow.

**5.06.3** The use of music or other amplification devices during construction or landscaping projects that can be heard across the property line is prohibited at all hours.

## **SECTION 6: APPLICATION AND APPROVAL PROCEDURES**

All requests for approval of improvement projects required by the CC&Rs or these Guidelines must be submitted in writing in accordance with the following procedures (see Sec. 2.03 for a list of improvements requiring approval). No work on any improvement may begin without the required NDRC approval in writing and without displaying at the job site proper evidence of approval issued by the NDRC Manager (a sign or approval form).

**6.01 Variances:** Requests for exemptions or variances from these Guidelines must be submitted in writing and described clearly, and must receive specific approval from the NDRC. A failure by the NDRC to note a non-conforming feature that has not been called out by the owner shall not be considered approval of that feature, and upon discovery, shall be grounds for a fine and may result in an order from the NDRC to remove the non-conforming feature and replace it with one that conforms, at the owner's expense.

**6.02 Application Requirements for Modifications to Existing Homes and Minor Landscaping:** Required documentation may vary, depending on the type and scale of project proposed. Please contact the NDRC Manager for more information.

**6.02.1 Project Proposal:** Complete and submit a Project Proposal for Design Review form. (The form is available from the NDRC Manager.)

**6.02.2 Documentation:** For modifications to existing homes and landscaping, the application must include hand- or computer-drawings of sufficient size, detail and perspective to fully show the type, location, color, and scale of the proposed improvements in the context of their surroundings, including dimensions, placement relative to the home and lot lines, and elevations, where applicable.

**6.02.3 Samples:** Where re-painting or re-staining an existing home involves a proposed color change, paint and stain colors must be applied to a small section of the front of the building in a location with good light for approval by the NDRC prior to application to the whole house; samples must be applied no later than 4 business days prior to the beginning of a paint/stain job to allow time for review. Proposed changes to exterior lighting or other features should include photos, cut sheets, or other representation.

**6.03 Application Requirements for New Construction and Major Landscaping:** The following apply to all construction and new, or re-landscaping projects:

**6.03.1 Mandatory Pre-Design Conference:** For any proposed new construction, addition, remodel, accessory structure, or major landscaping project, the owner and/or the owner's representatives must meet with the NDRC and the NDRC Manager to discuss the preliminary design concepts and any questions regarding building requirements in SSBT. The purpose of this informal review is to identify designs, colors, materials, or siting choices which may not be in keeping with the character of SSBT or which would duplicate other designs or materials in proximity to the subject property prior to preparing formal plans.

**6.03.2 Documentation:** The application for new or replacement homes, additions, and exterior re-modeling must include a completed questionnaire (available from the NDRC Manager) and contain professional-quality paper drawings of standard size using a standard scale of no less than 1/8" = 1'0", as well as a set in an electronic form (JPEG or PDF files). The site plan, floor plans, and elevations must be submitted and approved prior to submitting them to the City of Bend. The landscaping, drainage, and irrigation plans, as well as samples of lighting, other exterior finishes, and colors, may be submitted after construction has begun, but no later than 14 working days before work commences on those aspects of the project.

**6.03.3 Site Plan:** For new construction and home additions (where the footprint of the home will change), a complete site plan showing the proposed improvements, as well as the lot number, adjacent streets, property lines, construction staging/access areas, temporary structures, the orientation of the site, the dimensions of the lot, driveway and parking areas, existing trees (to remain and to be removed, greater than 6 inches in diameter, or 19 inches in circumference, measured 54" off the ground), the proposed location of fences, screens, service areas and garbage enclosures, all setbacks and easements, and special site features to be preserved or removed.

The lot coverage shall be noted on the site plan (the percentage of the lot covered by buildings, roofs, patios, decks, driveways, walks, and all other impervious surfaces). Additional information required includes: the proposed location and finished elevations at the top and bottom of any retaining walls, decks, fences, screens, driveway, patios and walks; the proposed location of all utility services and meters, including utility stubs; and the proposed location of all mechanical equipment. The site plan must also include contour lines showing both existing and proposed finish grades (1-foot contour intervals using field-verified topographic information).

For remodels that affect the exterior of the building, but where the footprint of the home isn't changed, and there is no exterior horizontal component to the remodel (such as a deck), no site plan is required.

**6.03.4 Floor Plans and Building Elevations:** All floor plans and exterior elevations for the home or addition must be included in the application. All building elevations shall reflect accurate existing and finish grade (topography) and the relationship of the building's finished floor elevations to the existing and proposed finished grade of the lot on each elevation, including decks and patios. All exterior building materials, patterns, and roof pitches must also be shown.

Remodel applications that affect the building's exterior shall include elevation drawings as described above, but floor plans are not required.

**6.03.5 On-Site Markings:** For new construction, stakes and string shall be installed, showing the lot lines, the driveway edges, and the outer-most outline of the footprint of the building or addition, including walled patios and second-story projections, such as decks. For any home addition affecting the footprint of the home, or any accessory structure, stakes and string shall be installed showing the outline of the proposed work. Stakes shall be tall enough for string to clear existing vegetation. The application will not be considered complete, and thus will not be reviewed, until the stringing is complete.

**6.03.6 City-approved Plans:** A copy of a complete set of the plans approved by the city must be provided to the NDRC Manager prior to receiving approval to begin construction.

**6.03.7 Sample Boards for Exterior Materials and Colors:** Sample boards for all exterior finishes for new construction and additions must be submitted for approval, marked with the owner's name and lot number. Material samples must be submitted for the roofing, siding, exterior doors and windows, and exterior masonry. Color samples must be submitted for the roofing, siding, trim, shingles, window frames, exterior doors, and exterior masonry. In addition, paint and stain colors must be applied to a small section of the building for final verification and approval by the NDRC prior to application to the whole house; samples must be applied no later than 5 business days prior to the beginning of a paint/stain job to allow time for review.

**6.03.8 Exterior Lighting:** Catalog cuts (or legible copies), including the size and finish of fixtures for all exterior lighting shall be submitted for approval. The location of fixtures must be noted on the site plan and elevations. Exterior lighting shall comply with Sec. 3.01.4 of these Guidelines.

**6.03.9 Landscaping:** Design elements that must be indicated on landscape plans include all paths, paved surfaces (sidewalks, driveways, parking areas), terraces, patios, retaining walls, screens, courtyard walls, and other hardscape, as well as all proposed plants, shrubs, and trees, all existing trees greater than 6" in diameter, all decorative features (such as rocks, water features, or sculptures), and any proposed landscape lighting. All landscaping plans must include a list of proposed plants, shrubs, and trees, and must indicate common names, not just genus and specie.

**6.03.10 Drainage and Irrigation Plans:** A drainage and erosion control plan, including on-site storm drainage and subsurface drainage dispersal systems designed by an Oregon-registered civil engineer or registered geotechnical engineer (the plan must have the engineer's stamp) must be submitted. An irrigation plan is also required. Both may be submitted with the landscaping plan.

**6.03.11 Accessory Structures:** Any proposed accessory structures, whether they are part of a new construction, addition, remodeling project, landscaping project or simply proposed on their own, must be shown on a landscaping plan (in addition to the site plan, if one is required), regardless of whether or not other landscaping improvements are proposed. Any plan showing an accessory structure must include elevation drawings, and on-site markings (typically stakes and string) will also be required.

**6.03.12 Design Review Fee, Deposit and Inspection:** For projects involving new construction, additions, remodels, and accessory structures, the application must include a check for the design review fee and for a construction deposit. The fee and deposit amounts are established by the Board and published in the Schedule of Design Review Fees & Fines. The fee is non-refundable. If additional plan review is required due to substantive design changes, the NDRC may require an additional fee. The deposit will be refunded if the improvements are completed and meet all NDRC requirements. Any fines assessed for violations of the Design & Construction Guidelines or Rules & Regulations during

the project will be subtracted from the deposit. The NDRC Manager will schedule a final inspection when the improvements are complete. Please contact the NDRC Manager for more information.

**6.04 Application Procedure:** All applications must be submitted to the NDRC Manager. The NDRC may require more information about the proposed improvements than is indicated above. Only complete applications will be reviewed by the NDRC; incomplete applications will not be reviewed.

**6.05 Notification of Neighbors:** The NDRC Manager will notify owners of adjoining lots and the lot(s) directly across the street, if relevant, that an application has been received for new construction or an addition, and that the plans are available for review in the office. Comments and concerns from the neighbors will be transmitted to the NDRC for the committee's consideration. Based on an assessment of the overall impact to surrounding properties, the NDRC may direct the NDRC Manager to notify other owners of nearby lots by mail, e-mail, phone, or personal delivery that improvement plans have been submitted and are scheduled for review.

**6.06 Review Schedule:** Once a complete application has been received, the NDRC will render a written decision within fifteen (15) business days. If the NDRC fails to respond to the application by this deadline, the applicant should contact the NDRC Manager regarding the status of the Application.

**6.07 Appeals:** Any owner adversely impacted by a decision of the NDRC may appeal the decision to the committee. Appeals shall be made in writing to the NDRC Manager within ten (10) business days of the NDRC's action and shall contain specific objections or mitigating circumstances justifying the appeal. The NDRC shall make a final, conclusive decision within ten (10) days after receipt of the written appeal from the owner.

## **SECTION 7: THE CONSTRUCTION OR INSTALLATION PROCESS**

**7.01 Commencement of Construction or Installation:** After receiving written approval from the NDRC, and upon displaying at the job site proper evidence of approval issued by the DCR manager (a sign or approval form), work may begin. Commencing construction or landscape installation, including clearing a vacant lot or removing trees, lawns, or other existing features, without submitting plans, or prior to NDRC approval, or without displaying the HOA-issued sign or approval document on the job site, is a violation subject to a fine and a stop-work order. Continuing work after a stop-work order is a violation subject to a daily fine.

Work on approved applications must commence within one (1) year for new homes, and within six (6) months for all other projects, after which an extension must be requested and approved by the NDRC, which may require additional documentation or changes. The owner shall inform the NDRC Manager of the start date and provide the name and contact information for the general contractor for the project.

**7.02 Duration of Construction or Installation:** Once work has started, the following time frames apply. Owners may request an extension by the NDRC if such completion is rendered impossible or would result in hardship to the owner, due to weather, labor strikes, fires, national emergencies or natural calamities. An extension may be granted for delays if a good faith effort has been made to complete construction. The owner shall request the extension and the length of the extension will be determined by the NDRC based on its assessment of the situation.

**7.02.1 New Homes:** All construction, including landscaping, shall be completed within fifteen (15) months after commencement of construction. Commencement shall be the date on which any changes to the lot are made, such as clearing trees and brush.

**7.02.2 Home Additions:** All construction shall be completed within nine (9) months of commencement of construction. Commencement shall be the date on which any changes to the exterior of the home are made.

**7.02.3 Remodels, Color Changes, and Accessory Structures:** All work shall be completed within three (3) months of commencement of work. Commencement shall be the date on which any changes to the exterior of the home are made or any work begins on an accessory structure. Upon written request by the owner, the NDRC may grant an extension of the deadline for unexpected delays that are out of the control of the owner or contractor (weather, unforeseen circumstances, etc.).

**7.02.4 Landscaping:** All work shall be completed within four (4) months of commencement of installation. Commencement shall be the date on which work begins on any landscaping improvements. If landscaping is not completed before the onset of winter, the owner must request NDRC approval of an extension to the following Spring, at which time all work must be completed by the date approved by the NDRC.

**7.03 Inspections and Final Release:** The NDRC and NDRC Manager will monitor progress on projects and address any non-compliance when it is discovered. The NDRC will also monitor the neighborhood on an on-going basis for work that should have been submitted for approval, but was not, and for indications that needed maintenance has not been performed.

**7.03.1 Work-in-Progress Inspections:** The NDRC or the NDRC Manager may inspect, from time to time, all work performed and determine whether it is in compliance with the approval granted and give notice of noncompliance. Absence of such inspection or notification during the construction period does not constitute an approval by the NDRC of work-in-progress or compliance with these Guidelines.

**7.03.2 Final Release:** Upon completion of any improvement, the owner shall give notice of completion to the NDRC Manager. Upon notification or expiration of the allotted time for the project (whichever occurs first), the NDRC Manager and NDRC will schedule an inspection within fifteen (15) business days. If all improvements comply with the application, the approved plans, and these Guidelines, the NDRC will issue a written approval to the owner, constituting a final release of the improvements by the NDRC. Either final release or a notice of non-compliance is to be issued within five (5) business days of a final inspection by the NDRC. If the owner is not ready for a final inspection upon expiration of the allotted time for construction, the owner must request an extension, which must be approved by the NDRC. Failure to request an extension may result in a daily fine. Upon a successful final release, the NDRC or the NDRC Manager shall take photos of the finished home and landscaping, to be kept on file for reference in the event of a dispute regarding whether any future improvements were authorized.

**7.03.3 Non-Compliance:** If it is found that any work was not done in compliance with the approved plans or any portion of these Guidelines, or that work has been performed for which NDRC approval was not obtained, the NDRC will issue a written notice of noncompliance to the owner, specifying the particulars of noncompliance (see Sec. 8.02 below for the procedures to be followed upon a notice of non-compliance).

**7.03.4 Restoration Expenses and Fines:** In the event of any violation of these Guidelines or of the design review provisions of the CC&Rs, the NDRC may assess restoration expenses or a fine. Any actions taken to remove or correct any non-compliance shall be at the owner's expense, as provided for in these Design & Construction Guidelines and the CC&Rs, including, without limitation, injunctive relief and the imposition of fines.

## **SECTION 8: FEES AND FINES**

**8.01 Schedule of Fees & Fines:** The Board of Directors may establish a schedule of fees and fines and the NDRC may levy fines against an owner for violations of any of these Design & Construction Guidelines. The current schedule of fees and fines is available from the NDRC Manager. Fees are due upon submission of a design review application. Late fees are due when applied. Fines are due within thirty (30) days after being levied or within fifteen (15) days after a hearing attended by the owner.

### **8.02 Procedures for Fines:**

**8.02.1 Written Notice:** In the event of a compliance violation, the NDRC, through the NDRC Manager, shall provide the owner, resident, contractor, or other violator with written notice of: a) the violation; b) a demand to correct the violation within a specified time; and c) the applicable fine. If the violator is other than an owner, the owner shall also be notified at the address-of-record. Notification may be made on any day of the week, and demands for correction of a violation do not exclude weekends, holidays, or the absence or unavailability of the owner.

**8.02.2 Process for Addressing Non-compliance:** The owner shall have ten (10) working days from the date of notice of non-compliance to remedy the non-complying portion(s) of the improvements. The NDRC, at its sole discretion, may choose to grant a time extension or waiver. If, by the end of this time period or extension, the owner has failed to remedy the non-compliance, the NDRC will schedule a hearing for not more than thirty (30) calendar days from the notice of non-compliance. At the hearing, if the NDRC finds that there is no valid reason for the continuing non-compliance, the NDRC may fine the owner for such non-compliance to-date. The NDRC shall then require the owner to

remedy or remove the non-compliance within not more than ten (10) working days from the date of the hearing. If the owner does not comply with the NDRC's ruling within that period or any extension which may be granted by the NDRC, the NDRC may fine the owner again, remove the non-complying improvement, remedy the non-compliance, and/or record a notice of non-compliance in the county deed records.

**8.02.3 Immediate Demand or Action by the Association:** In a situation where there is an immediate threat to health, safety, or the environment, the NDRC or NDRC Manager, or the Board or the Managing Agent shall demand that the owner rectify the situation immediately or may take direct action to rectify the situation immediately and without notice. Any costs incurred will be charged to the owner as a special assessment and the owner will still be fined if the incident involves a violation.

**8.02.4 Appeals:** Owners shall be entitled to request in writing, within fifteen (15) calendar days (including weekends and holidays) of receiving notice of a fine, a hearing before the Board of Directors to contest a fine for a violation. At the hearing, the owner may be represented by legal counsel and have a reasonable amount of time to introduce statements, evidence, and witnesses. A written record of the results of the hearing shall be maintained with the Association's minutes. Failure to request a hearing in writing by the due date of the fine or to attend a scheduled hearing shall constitute agreement by the owner to pay the fine and forfeit any right to future appeals.

**8.02.5 Continuing Violations:** In the case of continuing or persistent violations following a written notice:

- a. A separate fine may be assessed for each day or instance of the violation, and
- b. The amount of the fine per day or instance may escalate, and
- c. The Board may require the owner to post a bond or other form of security in order to ensure future compliance.
- d. For any such violation that cannot be corrected immediately, no further fines shall be levied for that violation after such time as the owner begins a good faith correction.

**8.03 Violations of Design & Construction Guidelines:** Specific fine amounts are established in the approved Schedule of Design Review Fees & Fines.

**8.03.1 Tier-1 Fines:** These are correctable infractions and minor violations of rules, including, but not limited to installing disallowed lighting, installing disallowed plants or trees, or installing a pre-fabricated structure.

**8.03.2 Tier-2 Fines:** These are major violations of rules, including, but not limited to starting construction or a major landscaping job without approval, changing colors, materials, or design elements without approval, or failing to complete work within the allotted timeframe without an approved extension.

**8.03.3 Tier-3 Fines:** These are unsafe practices, nuisances, and permanent or uncorrectable damage or alterations, including, but not limited to doing the following: removing trees, building in the setback, demolishing part of a home, or failing to control drainage and erosion to an extent that it causes damage to other property or the common area.

**8.03.4 Discretionary Fines:** The NDRC reserves the right to impose fines for infractions of these Guidelines not itemized above.

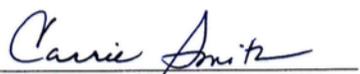
## SECTION 9: ADOPTION AND APPROVAL

These Neighborhood Design Guidelines are hereby adopted and approved this 23rd day of March, 2015 by the Village Board of Directors as authorized by the CC&Rs and Bylaws of the Village at Skyliner Summit at Broken Top HOA. For the Village Board of Directors:



Mary Howard, President, Village at Skyliner Summit at Broken Top HOA

These Neighborhood Design Guidelines are hereby approved this 23rd day of March, 2015 by the master association Board of Directors as authorized by the CC&Rs and Bylaws of Skyliner Summit at Broken Top HOA. For the Skyliner Summit Board of Directors:



Carrie Smith, President, Skyliner Summit at Broken Top HOA