

**HAMILTON CREEK  
DESIGN GUIDELINES  
AND PROCEDURES**

**Hamilton Creek Association  
And Architectural Control Committee  
P.O. Box 1935  
Silverthorne, CO 80498**

**Revised February 2008**

## TABLE OF CONTENTS

<b>1. STATEMENT OF PURPOSE .....</b>	<b>1</b>
<b>2. SITE PLANNING AND LANDSCAPE GUIDELINES.....</b>	<b>2</b>
2.1    LANDSCAPING .....	2
2.2    CONSTRUCTION AREA AND SETBACKS .....	2
2.3    SITE WORK.....	2
2.4    GRADING AND DRAINAGE.....	3
2.5    ACCESS DRIVES .....	3
2.6    ON-SITE PARKING .....	4
2.7    UTILITIES.....	4
2.8    WALLS AND FENCING .....	4
2.9    MECHANICAL EQUIPMENT .....	4
2.10   STORAGE TANKS.....	4
2.11   ANTENNAS AND SATELLITE DISHES .....	4
2.12   SIGNAGE.....	5
2.13   LIGHTING .....	5
2.14   SWIMMING POOLS AND SPAS.....	5
2.15   PROFILE HOLES.....	5
<b>3.    ARCHITECTURAL DESIGN STANDARDS .....</b>	<b>6</b>
3.1    SIZE .....	6
3.2    PREFABRICATED BUILDINGS.....	6
3.3    HEIGHT OF STRUCTURES .....	6
3.4    FOUNDATIONS .....	6
3.5    RADON PROTECTION.....	7
3.6    EXTERIOR MATERIALS .....	7
3.7    ROOFS.....	8
3.8    CHIMNEYS AND OUTDOOR FIRES .....	8
3.9    EXPOSED METAL, CHIMNEYS, FLUES, AND VENTS .....	8
3.10   EXTERIOR COLORS .....	8
3.11   WINDOWS, DOORS AND SKYLIGHTS .....	9
3.12   BUILDING PROJECTIONS .....	9
3.13   GARAGES.....	9
3.14   SOLAR APPLICATIONS .....	9
3.15   CHANGES OR ADDITIONAL CONSTRUCTION .....	9
<b>4.    CONSTRUCTION REGULATIONS .....</b>	<b>10</b>
4.1    PURPOSE.....	10
4.2    HEALTH AND SAFETY COMPLIANCE .....	10
4.3    CONSTRUCTION TRAILERS.....	10

4.4 TRASH RECEPTACLES AND DEBRIS REMOVAL ..... 10

4.5 SANITARY FACILITIES ..... 11

4.6 CONSTRUCTION ACCESS..... 11

4.7 VEHICLES AND PARKING AREAS ..... 11

4.8 CONSERVATION OF NATIVE LANDSCAPING..... 11

4.9 EXCAVATION MATERIALS..... 11

4.10 DUST AND NOISE CONTROL ..... 11

4.11 MATERIAL DELIVERIES ..... 12

4.12 FIREARMS..... 12

4.13 ALCOHOL AND CONTROLLED SUBSTANCES ..... 12

4.14 FIRES AND FLAMMABLE MATERIALS..... 12

4.15 PETS ..... 12

4.16 PRESERVATION OF PROPERTY ..... 12

4.17 RESTORATION OF PROPERTY ..... 13

4.18 CONSTRUCTION SIGNAGE ..... 13

4.19 DAILY OPERATION..... 13

4.20 SITE SAFETY ..... 13

4.21 CONSTRUCTION INSURANCE REQUIREMENTS ..... 13

**5. DESIGN REVIEW PROCEDURES..... 14**

5.1 PRE-DESIGN CONFERENCE AND SITE ANALYSIS ..... 14

5.2 PRELIMINARY DESIGN SUBMITTAL ..... 14

5.3 PRELIMINARY DESIGN REVIEW ..... 15

5.4 FINAL DESIGN SUBMITTAL..... 15

5.5 DEFERRAL OF MATERIAL OR COLOR SELECTION ..... 16

5.6 SITE INSPECTION ..... 16

5.7 FINAL DESIGN REVIEW ..... 17

5.8 REVIEW BY SUMMIT COUNTY ..... 17

5.9 COMPLIANCE DEPOSIT AND PRE-CONSTRUCTION CONFERENCE ..... 17

5.10 COMMENCEMENT OF CONSTRUCTION ..... 17

5.11 INSPECTIONS OF WORK IN PROGRESS ..... 17

5.12 SUBSEQUENT CHANGES..... 18

5.13 FINAL RELEASE ..... 18

5.14 NONWAIVER..... 18

5.15 RIGHT OF WAIVER OR VARIANCE..... 18

5.16 EXEMPTIONS ..... 19

5.17 DESIGN REVIEW FEE..... 19

**6. REVIEW BOARD ORGANIZATION ..... 20**

6.1 MEMBERS ..... 20

6.2 DELEGATION OF AUTHORITY ..... 20

6.3 DUTIES ..... 20

6.4 ADDRESS OF REVIEW BOARD ..... 20

6.5 MEETINGS ..... 20

6.6 COMPENSATION ..... 21

6.7 AMENDMENT OF DESIGN GUIDELINES..... 21

6.8 NONLIABILITY ..... 21

6.9 ENFORCEMENT ..... 21

6.10 SEVERABILITY ..... 22

6.11 OBLIGATION OF OWNERS TO MAINTAIN LOTS ..... 22

6.12 INSPECTION OF CONSTRUCTION..... 22

6.13 RELIANCE BY SUBSEQUENT OWNERS ..... 22

**7. PROMULGATION AND BINDING EFFECT ..... 23**

**APPENDIX A ..... 24**

BUILDING STAKEOUT PROCEDURES ..... 24

**APPENDIX B ..... 25**

SIGN SPECIFICATIONS..... 25

## 1. STATEMENT OF PURPOSE

The Hamilton Creek Design Guidelines have been created to provide direction to the Owners for the improvements of their properties, that the buildings constructed be of the highest quality design, sensitively sited and responsive to views and to solar and other energy conservation considerations. These guidelines constitute standards and requirements to which each Owner must adhere, whenever he proposes to build on his Lot, reconstruct, add to, change the exterior of an existing structure or create major landscape improvements, subject to waivers or variances granted by the Architectural Control Committee.

The Design Guidelines are promulgated and administered by the Architectural Control Committee (the "ACC") in accordance with the Declaration of Covenants for Hamilton Creek and pursuant to the authority granted therein to the Board of Directors of the Hamilton Creek Association (HCA).

The preservation of the native environment is a fundamental principle of Hamilton Creek and to that end a confined area is delineated for each Lot by set backs and grade limitations within which all improvement activity must occur. A comprehensive design review process (the "Design Review Process") has been established for this activity, encompassing the following five phases:

1. The Pre-Design Conference, during which each Owner along with his architect/designer may review their ideas and the natural aspects of the Lot with a representative of the ACC before any plans are prepared.
2. The Preliminary Submittal, at which time the ACC will review conceptual plans to ensure conformance with these Design Guidelines before the Owner finalizes his design.
3. The Final Submittal, at which time the ACC will review final construction documents to confirm that they are consistent with the previously approved preliminary plans.
4. The Pre-Construction Conference, during which a representative of the ACC may review the construction regulations with each selected builder to ensure understanding of, and future compliance with, these regulations.
5. The final Inspection of the improvements by a representative of the ACC to determine whether actual construction has been completed in compliance with the approved plans, approved changes, and these Design Guidelines.

The Design Review Process was developed to provide adequate checkpoints throughout the design and development phases, so that time and money are not wasted on plans and designs which do not adhere to the Design Guidelines or to the overall design principles of Hamilton Creek, or which may be inappropriate or of improper configuration for their specific Lot settings. Therefore, it is extremely important that the design steps of the Design Review Process be followed in their entirety, and in correct sequence.

It is strongly recommended that an Owner retain competent professional services for planning and design to ensure a thorough analysis and understanding of a particular Lot and the Owner's special needs and living patterns, as well as to provide the ability to communicate to the ACC the concept and design of a proposed residence and improvement.

The Design Review Process is intended to operate sequentially with the plan review process required by Summit County for obtaining a Building Permit. An application for a Building Permit should not be submitted to the County prior to confirmation of Final Design Approval by the ACC. However, Hamilton Creek's Design Review Process is independent of the County's technical plan review and

design review process and is solely intended to enforce the Hamilton Creek Design Guidelines. Therefore, each Owner or Owner's agent shall bear the responsibility for the proposed improvements adherence to the Summit County's design, zoning and building code standards.

Plans and specifications shall be approved by the ACC as to style, exterior design appearance and location. It is not the responsibility of the ACC to approve or evaluate the plans with regard to engineering design or for compliance with zoning and building ordinances. By approving such plans and specifications neither the ACC, the members or agents thereof, the Association, the Board of Directors of the Association assumes any liability or responsibility therefore, or for any defect in any structure constructed from such plans and specifications. Approval of plans and specifications by the ACC is not, and shall not be deemed to be, a representation or warranty that said plans or specifications comply with applicable governmental ordinances or regulations including, but not limited to, zoning ordinances and building codes.

## **2. SITE PLANNING AND LANDSCAPE GUIDELINES**

### **2.1 LANDSCAPING**

To the greatest extent possible, improvements shall be located to least alter and preserve the "natural condition" of a site. This "natural condition" is defined as a combination of indigenous plant material, trees, topsoil, rock formations and natural terrain and features that existed before construction on and around the site. Above ground sprinkler systems are not permitted. Drip systems to maintain specific trees and shrubs are permitted. Xeriscaping and replanting of native species are encouraged to minimize water usage.

The Owner is required to begin re-vegetation and landscaping as soon as the improvement is completed and the weather permits outdoor projects. Neighbors' views are to be considered before large trees are planted. Extensive landscaping plans requiring re-sculpturing of the site, placement of many large rocks, water fountains or permanent outdoor grills require approval by the ACC.

### **2.2 CONSTRUCTION AREA AND SETBACKS**

Buildings and structures must be sensitively sited on a lot and must be responsive to views of existing and future houses of neighboring properties. A confined area is delineated for any new construction by set backs and slope limitations. No structures can be located on slopes greater than 30% or in the set back area without the approval of the ACC. All structures, including roof overhangs and decks must be contained within such an area

The setback to contiguous properties can be no less than ten (10) feet. Unless otherwise stated on County Plat Plans, the minimum setback to the Right-of Way (ROW) of roads is ten (10) feet. The ROW is either fifty (50) or sixty (60) feet wide, which includes the paved road of twenty (20) feet plus a varying width for snow storage on both sides of the paved road.

### **2.3 SITE WORK**

No excessive excavation or fill will be permitted on any Lot except where specifically allowed by the ACC due to terrain considerations. Every attempt should be made to balance cut and fill with minimal use of retaining walls and engineered building pads.

The deposit of fill dirt, rocks or any material on a site, or alterations to such a site are prohibited prior to the approval of Final Design documents (see related Section 5.4 FINAL DESIGN SUBMITTAL) without prior written approval by the ACC.

No clear cutting of any Lot will be permitted; however, it is understood that some selective pruning or removal of trees and shrubs will be necessary for the development of a wooded Lot. The retention of trees over 4 inches in diameter or over 30 feet in height is strongly encouraged. Any cutting of trees or vegetation must first be approved by the ACC with the following exceptions: The pruning of dead limbs, removal of dead trees, and the cutting and removal of trees with a trunk diameter of 4 inches or less which are bowed, leaning, severely misshapen, diseased, or sparsely foliated.

## **2.4 GRADING AND DRAINAGE**

Site grading and drainage must occur with minimum disruption to the Lot, without altering natural drainage patterns as runoff leaves the Lot, and without causing conditions that could lead to unnecessary soil erosion, slippage or subsidence. Residential designs for hillside Lots (having a variation of natural grade elevation in excess of five vertical feet across the footprint of a proposed structure), must incorporate slope considerations into the design solution, so that the proposed structure terraces or steps with the natural slope. Artificial benching of sloped sites to create an engineered pad to accommodate a “flat lot design” is strongly discouraged.

Surface drainage upon and across any Lot must be addressed through the implementation of sound construction and grading practices. Existing points of entry and exit to and from a Lot by historic surface drainage must be respected. Any improvement which creates an obstruction to surface flows resulting in a back up of water onto a neighboring Lot or tract is strictly prohibited. Ground levels should be established at a vertical elevation such that final placement of backfill, walks, drives, and porches will produce a positive drainage away from the structure in all directions.

The inclusion of foundation waterproofing and a perforated pipe foundation drainage system are recommended along uphill and side hill foundation walls on hillside Lots. Consultation by a professional soils engineer is advised for assessment of unusual or irregular soil conditions encountered.

## **2.5 ACCESS DRIVES**

Hard surfaced driveways and parking areas are required. The driveway shall be a minimum width of twelve (12) feet but not exceed a width of sixteen (16) feet without ACC approval. Driveways shall have grades not exceeding ten percent (10%) without ACC written approval. Driveways and/or parking surfaces may not encroach into any side setback or a common area without specific approval of the ACC. Some limited encroachment may be considered where unique terrain, vegetation constraints or limited lot width may warrant. The Owner may wait up to 18 months following substantial completion of the home prior to installation of the hard surface of the driveway to allow for settling.

In order not to impede the flow of water in a drainage ditch, a concrete or metal culvert pipe, with a diameter of 12 inches or greater may be required to be installed beneath an access driveway, between the road shoulder and the property line. The flow line of the pipe shall be aligned and sloped so that storm flows will continue smoothly and unimpeded beneath the driveway crossing. The exposed ends of the pipe shall be aesthetically finished with concrete or stone headwalls. Stone headwalls may be grouted or loose-laid.

## **2.6 ON-SITE PARKING**

Each single-family residential dwelling shall provide an enclosed garage space to shelter a minimum of two conventional automobiles, and sufficient driveway space for the parking of two guest automobiles. Guest parking must not encroach into setbacks. Homeowners who possess trucks, buses, motor homes, campers, boats, boat trailers, motorcycles, snow mobiles or any other motorized vehicle, other than a conventional automobile, must store or park such vehicles within an enclosed garage so as to be completely hidden from view. On-site street parking on the paved road is not permitted. See related section 4.7 for parking of vehicles of construction crews.

## **2.7 UTILITIES**

The extension of utility services (water, electric, gas, phone and cable television services) wherever they exist, to the residence shall be the responsibility of each Owner, and shall be routed to minimize disruption to the natural landscape. As a general rule, utility trenches may not encroach into any required setback except where they cross the front setback from the service tap to the construction project. All disturbed areas of the site must be restored to their natural condition as nearly as possible. Information regarding current tap and service fees, as well as connection procedure, may be obtained by contacting the Hamilton Creek Metropolitan District. All utilities are to be installed underground. No surface or overhead utilities are allowed (except during the construction period).

## **2.8 WALLS AND FENCING**

Fences, walls or other screening barriers are not allowed without the prior written approval by the ACC. Multiple terraced retaining walls must be utilized where the overall height of retained earth exceeds six feet. Retaining walls may be constructed of cast concrete or concrete masonry units; however, all exposed surfaces and edges must be treated with an approved finish, such as stone veneer, exposed aggregate, stucco, or split-face block with custom color, to blend unobtrusively with its natural surroundings.

## **2.9 MECHANICAL EQUIPMENT**

No roof mounted or wall mounted mechanical equipment will be permitted. Any exterior mechanical equipment utilized must be ground mounted adjacent to the residence and must be enclosed by shrubs or fencing of sufficient height and density to screen the equipment from view and to buffer sound as well.

## **2.10 STORAGE TANKS**

All fuel tanks, water tanks or similar storage facilities must be installed underground.

## **2.11 ANTENNAS AND SATELLITE DISHES**

Satellite dishes shall be 18 inches or less in diameter and shall be mounted in the least obtrusive manner possible. Antennas are not allowed except for the purpose of radio transmission related to fire

protection or police/security matters. The size, location and configuration thereof shall be subject to ACC approval.

## **2.12 SIGNAGE**

1. All address number signs, permanent or temporary, are standardized and provided by the Hamilton Creek Association (HCA). These signs are for site identification and must be visible from the road.
2. A sign, for the purpose of displaying the home “For Sale” or to identify the general contractor during active construction periods either for a new home or for major additions, may be displayed if it conforms to the design specifications in Appendix B.
3. Signs indicating security protection shall be permitted provided that such signs are mounted onto the vertical posts of the address sign or on the house. They must be no larger than 0.70 square feet (10” x 10”) and are limited to two (2) signs per Lot (one for the front yard and one for the rear yard).
4. The Building Permit should be posted as required by the County.

## **2.13 LIGHTING**

Site lighting is permitted, provided such lighting does not result in excessive glare toward the street or neighboring properties. All exterior lighting must be of a low-level subdued intensity and is subject to approval by the ACC.

## **2.14 SWIMMING POOLS AND SPAS**

Swimming pools are not recommended for mountain homes at Hamilton Creek and are only allowed with consent by the ACC. They must adhere to Summit County regulations.

The source of water and the drain system for such pools require consent by the Metropolitan District. The drain system must not only be in accordance with prevailing Summit County regulations but cannot adversely affect neighboring properties.

Outdoor spas, if any, should be incorporated into the overall design of the residence and should be shielded from view. All spas must be constructed and drained according to Summit County regulations.

## **2.15 PROFILE HOLES**

All profile holes must be barricaded unless someone is physically present at the profile hole location. All profile holes must be filled within 48 hours of testing or inspection by the County. If the hole must remain open for retesting, the open hole must remain barricaded until test results are conclusive and/or the inspection is completed by the County. In no event shall a hole remain open for more than ten days. Filling the hole and removing the barricade is the responsibility of the property owner.

### 3. ARCHITECTURAL DESIGN STANDARDS

The following architectural standards have evolved in response to climate and aesthetic considerations at Hamilton Creek. It is the intent of these standards to evoke a sympathetic response to the character of this region, promoting an architectural design that is compatible with the natural landscape and is environmentally sound.

#### 3.1 SIZE

The square footage of dwellings must be appropriate to each lot size and will be negotiated on a site-by-site basis, but shall be a minimum of 1500 square feet of finished living space.

#### 3.2 PREFABRICATED BUILDINGS

Buildings that are constructed off-site and require transportation to any Lot, whole or in partial assembly, will not be permitted; this includes mobile homes, stock modular buildings, or any other structure requiring transportation and set up in a partially completed state. However, structures that are assembled off-site and completely disassembled for transportation, including log cabins or custom designed modular building, may be permitted. The aesthetic merits of any such structures are subject to review and approval by the ACC.

#### 3.3 HEIGHT OF STRUCTURES

The height of a structure is determined as the difference between the average natural grade ground surface elevation for the structure and the highest point (excluding chimney elements) of the structure. This difference shall not exceed the below stated height limitations. The average ground surface elevation is calculated from the average of the highest and lowest elevations where a structure intersects the ground surface. The ground surface elevations shall be determined using the natural grades, prior to any soil disturbance or berming.

The following are the maximum allowable height limits:

Thirty-five (35) feet for all buildings of Filing I  
Thirty-five (35) feet for all buildings of Filing II, Blocks 1 through 7

For the Sunbowl and the Benches the following height limits exist:

Thirty (30) feet for all buildings of Filing II, Block 10, Lots 1 through 6

Twenty-eight (28) feet for all buildings of Filing II, Block 8, Lot 1; Block 10, Lots 7 and 8 and Block 11, Lots 1 through 4

Twenty-six (26) feet for all buildings of Filing II, Block 9, Lots 1 through 3

#### 3.4 FOUNDATIONS

All visible surfaces of concrete, masonry or concrete foundation walls and piers must be treated with an approved finish, such as stone veneer, exposed aggregate, tinted stucco, or split-face block with custom color, to blend unobtrusively with its natural surroundings.

Foundation walls must step down with the grade change of sloping sites so that the exposed surface does not exceed a vertical height of four feet above finish grade at its greatest exposure. As an alternative to stepping the top of the foundation, the wall may be faced with siding, in the same plane as the wall surface above, to minimize foundation wall exposure.

### **3.5 RADON PROTECTION**

It is strongly recommended that a radon gas reduction system be included in new construction.

Radon is a gas created in the soil from trace amounts of uranium and radium in the soil. When radon enters a building that is constructed on top of such soil, it can build up and become a health hazard. The Colorado Department of Health and Environment and the EPA indicate in a booklet published in 1998 that 44% of all homes in Colorado are at concentrations above EPA's guidance on 4.0 pCi/L (picocurie per liter is a unit of measure of the concentration of radioactivity in a gas).

When building a new home, a cost effective way of creating a passive radon reduction system is to ensure that radon and other soil gases can move laterally beneath the slab and are exhausted through a vertical vent pipe. For detailed information on radon reduction systems contact the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, CO 80246 or call (303)692-3420 or 692-3442.

### **3.6 EXTERIOR MATERIALS**

There exist many traditions in high country architecture, which will be encouraged at Hamilton Creek along with certain regional adaptations. Exterior materials should generally be materials that blend and are compatible with the native landscape. Exterior materials can consist of wood, including shingles, native stone materials or stucco. Heavy timber and log structural accents are encouraged.

Plywood siding is prohibited unless the applicant can demonstrate to the ACC that the specific proposed application would result in a finished appearance indistinguishable from an individual board siding application. Generally, synthetic sidings, such as aluminum, vinyl and fiberglass products, are prohibited.

The use of stucco should be in combination with a native stone base and in tasteful combination with other allowed materials. Simulated or cultured stone will only be allowed when, in the opinion of the ACC, the product and pattern proposed for use resembles its natural native counterpart

The aesthetic merits of any combination of exterior materials are subject to review and approval by the ACC in order to maintain the architectural integrity and consistent visual experience of Hamilton Creek.

### **3.7 ROOFS**

All residences at Hamilton Creek, except those located at the Sunbowl and the Benches, shall have pitched roofs with a minimum pitch of six feet in twelve and a maximum pitch of twelve feet in twelve. Mansard roofs and flat roofs are prohibited, however a flat roof that is also used as a deck or balcony is allowed.

For buildings at the Sunbowl and the Benches roof pitches less than six feet in twelve are required and flat roofs are permitted with ACC approval.

The predominant roofing material for Filings I and II will be non-reflective raised-seam metal roofs and asphalt shingles. Because of the potential fire danger, wood shingles or shakes are not allowed. For the sake of contrast and variety, the use of slate and tiles are permitted. For asphalt shingles a “thirty year roof” or better is recommended. Asphalt shingles of standard thickness or asphalt roll roofing and all reflective metal surfaces are prohibited. For the Sunbowl and the Benches the use of dark tone tiles is recommended and built-up composition roofs, for all flat roofs. Due to the high snow load in this area, all roofs must be designed for a minimum snow load of 75 pounds per square foot or as directed by the Summit County Building Department. See related section 3.10 regarding roof projections.

### **3.8 CHIMNEYS AND OUTDOOR FIRES**

Due to the extreme fire danger usually present in this high forest region, all chimneys must be equipped with a U.L. or L.C.B.O. approved spark arrestor, including outdoor fireplaces. Open outdoor fire pits are prohibited.

Barbeques are permitted, provided they are lidded cookers. All other types of portable or freestanding barbeques are prohibited.

### **3.9 EXPOSED METAL, CHIMNEYS, FLUES, AND VENTS**

All exposed metals such as fascias, flashing, wall vents, roof vents, metal enclosures, chimneys, shall have a non-reflective surface or be painted. Reflective finishes will not be acceptable.

Vents shall be grouped whenever possible. Sidewall venting is recommended where practical and unobtrusive.

### **3.10 EXTERIOR COLORS**

The color of exterior materials must generally be subdued to blend with the natural landscape. Earth tones are recommended, although accent colors which are used judiciously and with restraint may be permitted. White and bright colors are prohibited. All color schemes must be approved by the ACC prior to their application to any portion of a residential structure. It is the intent of Hamilton Creek to preserve the appearance of the natural landscape and preclude the use of colors that would appear out of place.

### **3.11 WINDOWS, DOORS AND SKYLIGHTS**

Low E glass in a double glazed unit is recommended. Highly reflective glazing material and mirror like sun screening films are prohibited for use in windows, glazed doors, skylights, or for other exterior applications. In addition all metal windows, doors skylight frames, etc. must be painted, anodized or prefinished with baked enamel. Raw metal components, such as aluminum or galvanized iron, are prohibited.

### **3.12 BUILDING PROJECTIONS**

All projections from a residence or other structure including, but not limited to, chimney flues, vents, flashing, louvers, gutters, downspouts, utility boxes, porch railings and exterior stairways shall match the surface from which they project, or must be painted or stained an approved color to blend unobtrusively with adjacent materials. All building projections, such as roof overhangs, must be contained within the building setbacks.

### **3.13 GARAGES**

Garages must be attached and must accommodate at least two automobiles. Conventional carports are prohibited. Garage doors should not face directly towards the primary street frontage except for those circumstances where constricted Lot width, irregular Lot shape, or other restricting features of a Lot preclude the utilization of an angled or side entry approach to the garage.

Wood panel or wood-faced insulated sectional overhead doors with or without fenestration or an applied panel pattern sufficient to provide visual relief are recommended. Lightweight hollow metal overhead doors are not allowed. When garage bays exceed two, the third (or third and fourth) door(s) should occur in a secondary building plane, offset by 24 inches minimum, to avoid a continuous uninterrupted wall of three or more garage bays.

### **3.14 SOLAR APPLICATIONS**

Passive solar design is encouraged. Active solar applications can result in excessive reflective glare, and would only be approved by the ACC if the hardware is sufficiently integrated into the structure or landscaping of a Lot so as to appear unobtrusive from any other lot or property.

### **3.15 CHANGES OR ADDITIONAL CONSTRUCTION**

All exterior changes or additions to the approved plans before, during, or subsequent to their initial construction must be approved by the ACC before the alteration may be implemented.

## **4. CONSTRUCTION REGULATIONS**

### **4.1 PURPOSE**

In order to ensure that the natural landscape and all neighboring properties are respected, and the nuisances inherent to any construction process are kept to a minimum, the following regulations shall be enforced during the construction period of all improvements at Hamilton Creek. Any violation of these regulations by an Owner's agent, representative, builder, contractor or subcontractor shall be deemed an infraction by the Owner. (See Section 6.9 ENFORCEMENT).

The continued or habitual violation of these Design Guidelines by a general contractor, subcontractor, or materials supplier will result in the withdrawal by the ACC of his/their approval to perform work at Hamilton Creek. (See Declaration of Covenants, Conditions & Restrictions for Hamilton Creek, Section 2.5.

### **4.2 HEALTH AND SAFETY COMPLIANCE**

All applicable statutes, ordinances, or rules pertaining to safety and health, hazardous material, toxic substances or wastes, including all relevant Occupational Safety and Health Act (OSHA) regulations and guidelines must be observed at all times.

### **4.3 CONSTRUCTION TRAILERS**

Upon commencement of construction, a reasonably sized construction trailer may be located on the building site, clear of all setbacks.

### **4.4 TRASH RECEPTACLES AND DEBRIS REMOVAL**

Owners and builders shall clean up all trash and debris at the end of each day. An approved trash receptacle must remain on the site at all times for the disposal of all waste materials. The receptacle must be positioned on the site alongside the access drive, clear of side and rear setbacks, adjacent road right(s)-of-way and neighboring properties. Trash receptacles must be emptied on a timely basis to avoid overflow of refuse; disposal shall be at a suitable off-site facility. Owners and builders are prohibited from dumping, burying, or burning trash anywhere on the Lot or in Hamilton Creek.

All concrete washouts, from both trucks and mixers, must occur on the Lot, clear of all setbacks, in a location where it will ultimately be concealed by structure or covered by backfill. Washout in road rights-of-way, setbacks, common areas, or adjacent properties is strictly prohibited.

During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore or detriment to other lots or open space. Any clean-up costs incurred by the ACC, or the Association, in enforcing these requirements shall be payable by the Owner. Dirt, mud, or debris resulting from activity on each construction site shall be promptly removed from public or private roads, open spaces and driveways or other portions of Hamilton Creek.

#### **4.5 SANITARY FACILITIES**

Each Owner or builder shall be responsible for providing adequate sanitary facilities for his construction workers. Portable toilets must be located within the Lot, clear of setbacks.

#### **4.6 CONSTRUCTION ACCESS**

The approved access drive will be the only construction access to any Lot.

#### **4.7 VEHICLES AND PARKING AREAS**

Construction crews will not park on, or otherwise use, undisturbed portions of lots or open space. During construction periods involving multiple trades such that all construction vehicles cannot be confined to the site proper, the overflow vehicles may be temporarily parked along the shoulder of the roadway. During these limited occurrences, vehicles must be off the paved surface of the roadway or cul-de-sac to allow continual unconstrained access by normal traffic and emergency vehicles, including fire trucks. Vehicles may not be parked on neighboring lots, in nearby driveways or on open space. Changing oil or other vehicle maintenance is prohibited.

#### **4.8 CONSERVATION OF NATIVE LANDSCAPING**

The ACC shall have the right to designate specific trees and plants for preservation. Prior to excavation, trees or plants that are to be preserved must be marked and protected by flagging, fencing or barriers. The protection must remain during the entire construction period. Any trees or branches removed during construction must be promptly cleaned up and removed from the construction site.

#### **4.9 EXCAVATION MATERIALS**

All excess excavation materials must be removed from Hamilton Creek. It must not be deposited on common land or other Lots without prior written approval by the ACC.

#### **4.10 DUST AND NOISE CONTROL**

The contractor shall be responsible for controlling dust and noise from the construction site, including the removal of dirt and mud from public or private roads that is the result of construction activity on the site. The sound of radios or of other audio equipment must not be audible beyond the property perimeter of any Lot; repeated violations of this provision will result in the total prohibition of any on-site use of radios or audio equipment during construction.

#### **4.11 MATERIAL DELIVERIES**

All building materials, equipment and machinery required to construct a residence on any Lot at Hamilton Creek must be delivered to and remain on each Lot, clear of all setbacks. This includes all building materials, earth-moving equipment, trailers, generators, mixers, cranes and any other equipment or machinery that will remain at Hamilton Creek overnight. Some limited encroachment may be considered where unique terrain, vegetation constraints or limited lot widths may warrant. Material delivery vehicles may not drive across adjacent Lots or tracts to access a construction site.

#### **4.12 FIREARMS**

The possession or discharge of any type of firearm by construction personnel on any construction site, Lot or Common Areas within Hamilton Creek is prohibited.

#### **4.13 ALCOHOL AND CONTROLLED SUBSTANCES**

The consumption of alcohol or use of any controlled substance by construction personnel on any construction site, Lot or Common Area within Hamilton Creek is prohibited.

#### **4.14 FIRES AND FLAMMABLE MATERIALS**

Careless disposal of cigarettes and other flammable materials, as well as the build-up of potentially flammable materials constituting a fire hazard, are prohibited. All regulations of the Fire Protection District must be followed. No on-site open fires are allowed.

#### **4.15 PETS**

No pets, particularly dogs, may be brought onto the property by a member of any construction crew.

#### **4.16 PRESERVATION OF PROPERTY**

The use of or transit over any other Lot, Common Areas or amenity is prohibited. Similarly, the use of or transit over the natural area or setbacks of any Lot is prohibited. Construction personnel shall refrain from parking, eating, depositing of rubbish or scrap materials (including concrete washout) on any neighboring Lot, tract, or right-of-way.

#### **4.17 RESTORATION OF PROPERTY**

Upon completion of construction, each Owner and builder shall clean his construction site and repair all property which has been damaged, including but not limited to, restoring grades, planting shrubs and trees as approved or required by the ACC, and repair of streets, driveways, pathways, drains, culverts, ditches, signs and lighting. In addition, the Owner and general contractor shall be held financially responsible for the cost of site restoration/revegetation and refuse removal necessitated on any and all adjacent properties as a result of trespass or negligence by their employees or sub-contracted agents. (See related Section 2.1 LANDSCAPING).

#### **4.18 CONSTRUCTION SIGNAGE**

One address number sign, once provided, must be displayed on the posts provided. See section 2.12 SIGNS for information regarding signage allowed during the construction period. Individual signs, or construction signs identifying individual subcontractors, tradesmen or suppliers are prohibited. Identification of licensed tradesmen, when required by State or County statutes, shall be confined to the posting location of the Building Permit.

#### **4.19 DAILY OPERATION**

Construction activity, which generates excessive noise such as hammering, sawing, excavation work, concrete delivery, etc., must be confined to the hours of 7:00 a.m. to 6:00 p.m., Monday through Saturday.

#### **4.20 SITE SAFETY**

Due to the inherent danger associated with an active construction site, visitors to any site should be limited to those persons with official business relating to the construction activity, such as construction workers and tradesmen, building officials, security staff, design review observers, sales personnel and the Owner. Construction personnel should not invite or bring family members or friends, especially children, to the job site.

#### **4.21 CONSTRUCTION INSURANCE REQUIREMENTS**

All contractors and sub-contractors must post evidence of insurance with the Owner, prior to entering the construction premises.

## 5. DESIGN REVIEW PROCEDURES

Site-sensitive and site-specific design shall be fundamental at Hamilton Creek. Design drawings should evolve from the careful and thorough analysis of a site's specific setting and features. Therefore, Owners and/or their designers should refrain from approaching a site with a predetermined design expecting to "make it fit", with little regard to neighbors views or natural constraints. Hamilton Creek has established this review procedure to assist the applicant through the design process in its appropriate sequence.

Plans and specifications shall be submitted to the ACC in accordance with the following conference and submittal requirements and review procedures.

### 5.1 PRE-DESIGN CONFERENCE AND SITE ANALYSIS

**CONFERENCE** - Prior to preparing preliminary plans for any proposed improvement it is required that the Owner and/or his architect/designer meet with representatives of the ACC to discuss proposed plans and to identify, and attempt to resolve, any questions regarding building requirements or site sensitive issues. This informal review is to offer guidance prior to initiating preliminary design, and should occur on site whenever possible.

**SITE ANALYSIS** – Prior to preparing preliminary plans, for any proposed improvement it is required that a Site Analysis be completed and presented to the ACC. The Site Analysis should include:

1. Location of any existing homes and/or building envelopes on all adjacent lots..
2. Location of significant site features.
3. Building envelope for the subject lot showing setbacks and 30 degree slope restrictions.
4. Driveway access.
5. Septic tank and leach field location proposals.
6. Analysis of views from the site and neighbor views of the site.
7. Bubble diagrams showing conceptual design ideas responding to findings of site analysis and Pre-Design Conference.

### 5.2 PRELIMINARY DESIGN SUBMITTAL

When the preliminary design is complete, plans that are submitted must include all of the following exhibits; no review will commence until the submittal is complete:

1. Site Plan (scale at 1"=10'-0"), showing the entire property, including setbacks and slope limitations (30%), the residence, the driveway, parking area, existing and proposed topography, location of septic tank and leach field, all trees of 4 inch diameter or greater at chest height, and special features to be preserved.
2. Site Survey (scale 1"=10'-0"), by a registered land surveyor or licensed civil engineer showing Lot boundaries and dimensions, topography (2 foot contours or less), major terrain features, all trees of 8 inch diameter or greater at chest height, edge of road pavement and utility locations. Site Plan and Site Survey may be combined.
3. Floor Plans and Roof Plan (scale ¼" or 1/8" = 1'-0"). The Floor Plans must show proposed finished floor elevations and the dimensions of the residence, of all rooms, storage areas, closets and the garage. The Roof Plan must show all roof pitches as well as the set backs to the

- property lines. (The Roof Plan may be shown on the Site Plan unless its complexity requires a separate drawing for clarity)
4. All exterior Elevations (scale  $\frac{1}{4}$ " or  $\frac{1}{8}$ " = 1'-0") showing both existing and proposed grade lines, plate heights, ridge heights and roof pitch, and indicating exterior materials and color. The Elevations must show the dimension to the highest point of the roof structure, as measured from the average surface elevation above the natural grade, (see related Section 3.3 HEIGHT OF STRUCTURES)
  5. Building Sections (scale  $\frac{1}{4}$ " or  $\frac{1}{8}$ " = 1'-0"). One of the sections is to be shown perpendicular to the slope.
  6. A description, samples or pictures of all exterior materials, textures and colors.
  7. A perspective drawing or model and appropriate sketches, as necessary, to explain the character and form of the building.
  8. Schematic Landscape Plan (scale 1" = 10'). The Landscape Plan is to include existing and proposed plants. The Landscape Plan may be combined with the Site Plan.
  9. The submittal shall consist of 2 sets of prints which shall be retained by the ACC.
  10. A design review fee of \$250.00 is required, payable to the HCA. Payment is due prior to the ACC's Preliminary Design Review response and will be used to have a licensed architect review the preliminary plans. This fee is subject to change without notice. Additional design review and Architectural Consultant fees, if required, will be the Owners responsibility and will be assessed and paid as described in Section 5.9.

A complete Preliminary Design Submittal and the requisite design review fee must be received by the ACC in order to initiate the review.

### **5.3 PRELIMINARY DESIGN REVIEW**

The ACC will meet to review the submittal and will respond in writing within 14 calendar days after their review, barring unavoidable delays, but no later than 30 days after the complete submittal. Any response an Owner / Architect may wish to make regarding the results of a design review must be addressed to the ACC in writing.

The written approval by the President of the HCA or the Chairman of the ACC shall be valid for a period of eighteen (18) months. If the Final Design (construction documents) is not submitted before the end of this time period, any approval shall be automatically revoked. The Preliminary Review process will have to be made again without any assurance that a previously approved Preliminary Design will be accepted.

### **5.4 FINAL DESIGN SUBMITTAL**

After preliminary approval is obtained from the ACC the following construction documents are to be submitted for final review; no review will commence until the submittal is complete:

1. Site Plan (scale 1" = 10') showing the entire property including setbacks and grade limitations (30%), the residence, driveway, parking area, septic tank and leach field, existing and proposed

- topography, finished floor elevations, all protected plants or special terrain features to be preserved, trees to be removed, all utility sources and connections, and retaining walls.
2. Foundation Plan (scale  $\frac{1}{4}'' = 1'-0''$ ), showing finished floor elevations.
  3. Floor Plans and Roof Plan (scale  $\frac{1}{4}'' = 1'-0''$ ). The Floor Plans must show proposed finished floor elevations and dimensions of the residence, of all rooms, storage areas, closets and the garage. The Roof Plan must show all roof pitches as well as the set backs to the property lines. (The Roof Plan may be shown on the Site Plan unless its complexity requires a separate drawing for clarity)
  4. Building Sections (scale  $\frac{1}{4}'' = 1'-0''$ ), indicating existing and proposed grade lines.
  5. All exterior Elevations (scale  $\frac{1}{4}''$  or  $\frac{1}{8}'' = 1'-0''$ ) showing both existing and proposed grade lines, plate heights, ridge heights and roof pitch, and indicating exterior materials and color. The Elevations must show the dimension to the highest point of the roof structure, as measured from the average surface elevation above the natural grade, (see related Section 3.3 HEIGHT OF STRUCTURES)
  6. A collage depicting final exterior materials, colors and textures.
  7. Complete Landscape Plan (scale  $1'' = 10'$ ) showing size and type of all proposed plants and trees. The Landscape Plan may be combined with the Site Plan.
  8. Site Management Plan (scale  $1'' = 10'$ ) showing the location of the construction trailer, trash receptacle, portable toilet, construction access, construction material and equipment storage, parking for construction crews, and silt fences, This requirement can be combined with the Site Plan (Item 1) drawing if desired.
  9. On-site staking of all building corners and other improvements will be required, as described in Appendix A.
  10. The submittal shall consist of 2 sets of prints, which shall be retained by the ACC.

## 5.5 DEFERRAL OF MATERIAL OR COLOR SELECTION

An applicant may wish to delay the confirmation of landscaping and final color or stonework selections for the residence until some point in time after the start of construction in order to better visualize landscape considerations, or to test an assortment of potential colors with actual materials intended for use. The ACC will cooperate with the applicant in this regard, provided that no landscape work will be started, nor color or material applied, until such time as the ACC has had the opportunity to review and approve the final selections.

## 5.6 SITE INSPECTION

As soon as the submission of final plans is complete, representatives of the ACC will inspect the Lot to determine that the conditions as depicted in the final submittal are accurate and complete.

## **5.7 FINAL DESIGN REVIEW**

The ACC will meet to review the submittal and will respond in writing in 14 calendar days after their meeting, barring unavoidable delays, but no later than 30 days after the effective date of submittal.

Any response an Owner may wish to make regarding the results of a design review must be addressed to the ACC in writing.

The final written approval by the President of the HCA or the Chairman of the ACC shall be valid for a period of eighteen (18) months. If construction has not started before the end of this time period, any approval shall be automatically revoked. The review process will have to be made again without any assurance that a previously approved design will be accepted.

## **5.8 REVIEW BY SUMMIT COUNTY**

Final Documents (contract drawings) must be approved in writing by the ACC prior to the submission to Summit County for obtaining an excavation or Building Permit.

## **5.9 COMPLIANCE DEPOSIT AND PRE-CONSTRUCTION CONFERENCE**

A compliance deposit of \$1000 is required prior to commencing construction. This deposit will be used as payment toward any additional architectural consulting fees, fines assessed, legal fees, or any other expenses that the ACC may incur related to compliance with these Design Guidelines and the approved Final Plans (See Section 6.9 - Enforcement). The deposit, less any fees, fines or expenses, will be refunded within 30 days after the Final Release.

The Owner shall be responsible for all fees, fines, and expenses incurred by the Association that may exceed the Compliance Deposit. Any such additional expenses must be paid by the owner to the HCA prior to Final Release.

Prior to commencing construction, the builder will meet with a representative of the ACC to review construction regulations and compliance with these guidelines.

## **5.10 COMMENCEMENT OF CONSTRUCTION**

The Owner shall complete the construction of any improvement of his Lot within 24 months after commencing construction. If the Owner fails to comply with this schedule, or if the diligent and earnest pursuit of the completion of the improvement ceases, the ACC may, upon the passage of sixty days after written notification to the Owner, proceed to have the exterior of the improvement completed in accordance with the approved plans, or remove the improvement and restore the Lot to its pre-construction condition, to the greatest degree possible. All costs relating to the completion or removal shall be borne and be reimbursed to the HCA by the Owner, to be secured by a continuing lien on the Lot.

## **5.11 INSPECTIONS OF WORK IN PROGRESS**

The ACC may inspect all work in progress and give notice of noncompliance. Absence of such inspection or notification during the construction period does not constitute an approval by the ACC of work in progress or compliance with these Design Guidelines.

## **5.12 SUBSEQUENT CHANGES**

Additional construction or other improvements to a residence or Lot, or external changes during construction or after completion of an approved structure, including landscaping and color modification, must be submitted to the ACC for approval prior to making such changes or additions.

## **5.13 FINAL RELEASE**

Upon completion of any residence or other improvement and before application for the Certificate of Occupancy, the Owner or builder shall give written notice of completion to the ACC.

Within 30 days of such notification, a representative of the ACC may inspect the residence or other improvements for compliance. If all improvements comply with these Design Guidelines, the ACC may issue a written approval to the Owner, constituting a final release of the improvements by the ACC, which release is to be issued within 30 days of the final inspection.

If it is found that the work was not done in strict compliance with the approved plans or any portion of these Design Guidelines, the ACC may issue a written notice of noncompliance to the Owner, specifying the particulars of noncompliance, which notice is to be issued within 30 days of the final inspection.

The Owner shall have 30 days from the date of notice of noncompliance within which to remedy the non-complying portions of his improvement. If, by the end of this time period the Owner has failed to remedy the noncompliance, the ACC may take action to remove the non-complying improvements as provided for in these Design Guidelines, including, without limitation, injunctive relief or the imposition of a fine.

If the ACC fails to issue a final release, and also fails to issue a notice of noncompliance to the Owner, within one year of the ACC's receipt of the Owner's or builder's written notice of completion, the completed improvements shall be deemed to be in compliance with plans as approved by the ACC and in compliance with these Design Guidelines.

## **5.14 NONWAIVER**

The approval of the ACC of any plans, drawings, or specifications for any work done or proposed shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing or specification subsequently or additionally submitted for approval. Failure to enforce any provision of these Design Guidelines shall not constitute a waiver of same.

## **5.15 RIGHT OF WAIVER OR VARIANCE**

The ACC reserves the right to waive or vary any of the procedures or standards set forth herein at its discretion, for good cause shown. Upon submission of a written narrative request for a variance or waiver of one or more provisions of these Design Guidelines, the ACC may, from time to time, in its sole

discretion, permit Owners to construct, erect, or install improvements, which are in variance with these Design Guidelines. No member of the ACC shall be liable to any Owner or other person for any claims, causes of actions, or damages arising out of the granting or denial of any variance request by an Owner or his agent.

Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the ACC's right to strictly enforce these Design Guidelines against any other Owner. Each such written request must identify and set forth in narrative detail the specific guideline or standard from which a variance is sought, describe in detail the exact nature of the variance sought and be accompanied by the appropriate fee as prescribed by the ACC. Any grant of variance by the ACC must be in writing and must identify in narrative detail both the standard from which a variance is being sought and the specific variance being granted.

#### **5.16 EXEMPTIONS**

Repainting or restaining associated with the prudent maintenance of an existing residence does not require subsequent approval by the ACC, provided the paint/stain colors are identical to those initially approved by the ACC for application to the residence.

#### **5.17 DESIGN REVIEW FEE**

The design review fee of \$250.00 (see related Sections 5.2, Item 10 and 5.9) is assessed at the time of Preliminary Design submittal, on both new construction and major additions. The fee is non-refundable regardless of whether or not the Owner elects to proceed with construction.

## **6. REVIEW BOARD ORGANIZATION**

### **6.1 MEMBERS**

As approved in Article II of the Declaration of Covenants, the ACC shall consist of the members of the Board of Directors of the Association, or appointees thereof.

### **6.2 DELEGATION OF AUTHORITY**

The ACC may delegate its design and plan review responsibilities to one or more of its members, acting as a subcommittee of the ACC, and/or professional design consultants retained by the ACC on behalf of the Association. Upon such delegation, the approval or disapproval of plans and specifications by such member or consultants shall be equivalent to approval or disapproval by the entire ACC.

### **6.3 DUTIES**

It shall be the duty of the ACC to perform those duties specified in the Declaration and these Design Guidelines, to consider and act upon such proposals or plans related to the construction of improvements within Hamilton Creek, as are submitted pursuant to the Declaration and these Design Guidelines, to enforce the architectural provisions of the Declaration and these Design Guidelines, and to amend these Design Guidelines whenever, and in a manner, deemed appropriate by the ACC.

### **6.4 ADDRESS OF REVIEW BOARD**

The address of the ACC shall be the address established for giving notice to the Association, unless otherwise specified by the ACC. Such address shall be the place for the submittal of plans and specifications and the place where the current Design Guidelines shall be kept.

The present address for both Hamilton Creek Association and Architectural Control Committee is:  
P.O. Box 1935, Silverthorne, CO 80498

### **6.5 MEETINGS**

The ACC shall convene as necessary to properly perform its duties. The vote of a majority of the members shall constitute an act by the ACC. The ACC shall keep on file all submittals and copies of all written responses to Owners to serve as record of all actions taken.

## **6.6 COMPENSATION**

Unless authorized by the Association, the members of the ACC shall not receive any compensation for services rendered. However, a professional design consultant, retained to advise and assist the ACC, and who may also serve as an appointed member of the ACC as well, may be paid such compensation as the other ACC members determine. All members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with their performance of their duties. Professional consultants or representatives of the ACC retained for assistance in the review process shall be paid such compensation as the ACC determines.

## **6.7 AMENDMENT OF DESIGN GUIDELINES**

The ACC may, from time to time, amend or revise any portion or the entirety of these Design Guidelines. All amendments and revisions shall be appended to and made a part of the Design Guidelines. Each Owner is responsible for adhering to the most recently revised Design Guidelines.

## **6.8 NONLIABILITY**

Plans and specifications shall be approved by the ACC as to style, exterior design, appearance and location, and are not approved for engineering design or for compliance with zoning and building ordinances. By approving such plans and specifications, neither the ACC, the members nor agents thereof, the Association, nor the Board of Directors of the Association assumes any liability or responsibility therefore, or for any defect in any structure constructed from such plans and specifications. Neither the ACC, any member or agent thereof, the Association, nor the Board of Directors of the Association shall be liable to any Owner or other person for any damage, loss or prejudice suffered or claimed on account of:

1. The approval or disapproval of any plans, drawings and specifications, whether or not defective;
2. The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
3. The development, or manner of development, of any property within Hamilton Creek or,
4. The execution and filing of a compliance or non-compliance certificate pursuant to these Design Guidelines, whether or not the facts therein are correct; provided, however, that such action, with the actual knowledge possessed by him was taken in good faith.

Every Owner or other person, by submission of plans and specifications to the ACC for approval, agrees that he will not bring any action or suit against the ACC, any of its members or agents, the Association, or the Board of Directors of the Association, regarding any action taken by or on behalf of the ACC, or of the construction of any improvement at Hamilton Creek, refers only to these Design Guidelines, and in no way implies, and shall not be deemed to be a representation or warranty that, the submitted plans or specifications for the improvement comply with applicable governmental ordinances or regulations including, but not limited to, zoning ordinances and building codes.

## **6.9 ENFORCEMENT**

The ACC may, at any time, inspect a Lot or improvement and, upon discovering a violation of these Design Guidelines, provide a written notice of noncompliance to the Owner causing the

noncompliance, including a reasonable time limit within which to correct the violation. If an Owner fails to comply within this time period, the ACC or its authorized agents may enter the Lot and correct the violation at the expense of the Owner of such Lot; said expense to be secured by a lien upon such Lot and improvements, enforceable in accordance with the Declaration. In the event of any violation of these Design Guidelines, the ACC may, at its sole discretion and in addition to restoration or completion expenses, impose without limitation, a punitive fine, commensurate with the severity of the violation. The ACC may, if there is a violation of the Design Guidelines and Procedures, or construction is initiated without approval, may obtain legal recourse to stop construction. The Owner shall be responsible for all legal fees and expenses incurred by the Association. Owners will be assessed fines in accordance with the Procedures and Fines Schedule for violations not considered to warrant legal recourse by the ACC.

#### **6.10 SEVERABILITY**

If any provision of these Design Guidelines, or any section, clause, phrase or word, or the application thereof in any circumstances, is held invalid, the validity of the remainder of these Design Guidelines, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby, and the remainder of these Design Guidelines shall be construed as if such invalid part were never included therein.

#### **6.11 OBLIGATION OF OWNERS TO MAINTAIN LOTS**

The adoption of these Design Guidelines, including the standards and procedures for architectural approval, shall not be construed as changing any rights, obligations, or restrictions upon Owners to maintain or repair their Lots as may otherwise be specified in the Declaration or the rules and regulations of the Association.

#### **6.12 INSPECTION OF CONSTRUCTION**

Any member or authorized consultant of the ACC, or any authorized officer, director, employee or agent of the Association, may at any reasonable time enter, without being deemed guilty of trespass, upon any Lot, in order to inspect improvements constructed or being constructed on such Lot to ascertain that such improvements have been or are being built in compliance with these Design Guidelines and the Declaration.

#### **6.13 RELIANCE BY SUBSEQUENT OWNERS**

As to purchasers and encumbrances of a Lot in good faith and for value, unless notice of non-completion or nonconformance identifying the violating Lot and specifying the reason for the notice, executed by the ACC, shall be recorded with the Summit County Clerk and given to the Owner of such Lot within one year after the expiration of the 24 month time limitation for completion imposed under Design Guidelines Section 5.10, or, if later, within one year following completion of the improvement, or unless legal proceedings shall have been instituted to enforce compliance or completion within such 24 month period, the completed improvement shall be deemed to be in compliance with plans and specifications approved by the ACC and in compliance with the architectural standards of these Design Guidelines and the Declaration.

## **7. PROMULGATION AND BINDING EFFECT**

These Design Guidelines are promulgated by the ACC in accordance with, and pursuant to the authority granted in, Article II, Declaration of Covenants, Conditions and Restrictions for Hamilton Creek dated January 14, 1986 and recorded July 8, 1986, public records of Summit County, Colorado. These Design Guidelines shall be deemed incorporated into the Declaration for all intents and purposes and shall be binding upon all Lots within Hamilton Creek project and upon all Owners or other persons having any interest in or to a Lot within Hamilton Creek project subject to the Declaration and any Supplemental Declaration involving the lots at Hamilton Creek. In the event of any conflict or inconsistency between the provisions of these Design Guidelines and the provisions of the Declaration pertaining to architectural control, standards or procedures, or to the ACC, the provisions of these Design Guidelines shall be controlling.

## **APPENDIX A**

### **BUILDING STAKEOUT PROCEDURES**

The location of each improvement shall be staked to confirm the improvements are set in conformance with the design submittal.

1. The improvement shall be defined with wood lath. All building corners are to be staked and identified. The outline of the improvement may be required to be marked by connected string between corner stakes. All property corners are also required to be marked in a similar manner. The main floor elevation of the structure shall be clearly marked on a grade stake.
2. All trees proposed for removal shall be tagged with plastic flagging tape.
3. No trees, shrubs, or ground cover shall be removed before the ACC's stakeout inspection.
4. Stakeout inspections shall be conducted at a time when the site is free from snow, if possible.
5. Driveway locations will be staked at each side of the drive at twenty (20) foot intervals.
6. Any and all improvements in addition to the proposed residence shall be staked at this time. This includes the staking of the septic system and leach field.

## APPENDIX B

### SIGN SPECIFICATIONS

All “For Sale” and contractor identification signs must adhere to the following specifications:

**Material:** Metal

**Size:** 16 inch x 16 inch

**Corners:** 1-inch radius (All corners)

**Background Color:** Allowable colors are light beige, light green or light/medium gray.

**Lettering:** Size and color are optional (One color only)

**Border:** A 1/8-inch wide border in the same color as lettering surrounds the text on the sign. The border must be located 3/8-1/2 inch from the outside edge of the sign.

**Sign Location:** Must only be hung underneath the house address number sign provided.

