

A GUIDE TO THE
BLACK BOULDER MESA PROPERTY OWNERS' ASSOCIATION
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESIDENTIAL DEVELOPMENT STANDARDS

Welcome to the Black Boulder Mesa Property Owners' Association Guide, intended as an overview of the most relevant provisions of the CC&Rs, Architectural Guidelines and the Conservation Easements. The complete recorded documents, with amendments, are included as an appendix.

This Guide serves as an important reference for any owner thinking about building on the Mesa, as well as an introduction for any prospective purchaser. Since the Architectural Design Standards are where the real questions of individual needs and vision will arise, an owner will save time, expense and potential frustration by first reading this Guide and then discussing the details with a member of the Architectural Committee. This should be done well in advance of drawings by an architect or trying to decide upon any particular styles or structural elements. Ideally, this dialogue would take place before purchasing a parcel to make certain that your vision is consistent with the Mesa's Design Standards.

For clarity, this guide is organized into three parts: (1) some general concepts and definitions; (2) discussions of the Residential Development Standards, which is the primary purpose of this guide; and (3) a brief introduction to the rest of the CC&Rs. It is important to note that all discussions of a particular section are done solely for the purpose of giving the reader a general understanding and then pointing to the appropriate section(s) of the the recorded documents. The language contained in those documents (all found in the appendix) is what must be ultimately relied upon.

Also, please note the date below, as there may be recorded amendments that have since been filed. We are happy to answer any questions or assist in any way.

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PART ONE - OVERVIEW AND DEFINITIONS

General philosophy. The introduction to the Architectural Standards (appendix part 2, pg 2) is a comprehensive explanation of the underlying philosophy for building on the Mesa. That introductory section attempts to capture the spirit of what is intended and hoped for, and the reader can readily decide whether this fits their needs. It might all be summed up as a twofold approach: minimize the impact of structures without hampering creative design. Even though each parcel includes ten acres (or more), a development envelope and transition zone has been established to contain the structures within no more than approximately ten percent of the ten acres. The other nine acres are placed in Conservation Easement which must remain in its natural state and acts as a privacy zone and guaranteed viewshed for the owner. All structures are basically intended to be one story, peeking out rather than poking up so to speak, though everything is site-specific and some will accommodate slightly more aggressive profiles depending upon the tree cover and terrain. The more exposed the site, the more the structures need to be artfully and organically designed and sited. Natural stone is a required element of every structure, both as a grounding element and as a thematic link between all structures and the natural environment found on the Mesa. The night sky views are extremely important to the experience of living on the Mesa and in the Boulder area. Accordingly, all lighting, inside and out, must be thoughtfully executed.

Definitions and Concepts. At the risk of oversimplifying, some basic definitions and concepts are covered here. First, what are CC&Rs? They are Covenants, Conditions and Restrictions recorded against the property. Our CC&Rs include the Residential Development Standards which set the boundaries for what can and cannot be built on the Mesa by describing the design parameters both narratively and illustratively through Character Sketches (see schedule one, appendix part 2). Recorded CC&Rs act as private ordinances in a sense, specific to the property over which they have been recorded, which are then regulated by the Property Owners' Association. The CC&Rs run with the land, meaning that when an owner sells, mortgages or otherwise records a new interest in or against the property, those new interests take subject to all of the recorded documents.

The Property Owners' Association is a Utah nonprofit corporation. (Copy of Articles and By-Laws attached.) It has specific rights and duties granted or imposed by the Covenants and its organizing documents. Its primary purposes are to administer and enforce the Covenants, appoint the Architectural Committee, maintain the roads, insurance and any other common interests of the Owners as a group. In addition, the Association has the power to pass further regulations and assessments consistent with the CC&Rs. It meets annually and reports on the budget and resolutions to all Owners.

The Conservation Easement referred to in the CC&Rs is a separate recorded document against portions of each parcel on the Mesa property. It limits the activities that can occur within the area it covers. Simply stated, it is intended to curtail any further development, to keep that area in a natural state and to allow the native plants to regenerate after decades of cattle grazing. To accomplish this in perpetuity, certain rights were withheld from the fee ownership to be deeded over to a qualified Land Trust. It is the job of the Land Trust (in conjunction with the Association) to monitor the Conservation Easement areas in perpetuity, assuring that they remain in their native condition.

The Development Envelope and Transition Zone are the areas that can be disturbed. An owner can build structures anywhere within the Development Envelope. It is necessary to submit a site plan to the Architectural Committee showing the footprint of the structures and trees to be removed. The Transition Zone is set aside for low impact improvements such as patios, low walls, landscaping and an area where selective tree cutting and trimming might be desirable to open up view corridors, generally after the location of structures has been determined by the owner.

With that overview, we can proceed to specifics, in particular those details which will be most helpful during the design and building phases of homes on the Mesa.

PART TWO - BUILDING ON THE MESA

This section is intended to outline and discuss the steps required for plan submissions, the dues and fees, and the most relevant Design Standards. The narrative is just a guide to get you thinking in the right direction; the actual documents are always controlling. For easy reference, the recorded covenants are attached as appendix and divided into two main parts. The primary Covenants (appendix, part 1) and the Residential Design Standards, with the Character Sketches and other materials (appendix, part 2).

DESIGN REVIEW PROCEDURES. (appendix, part 2, sec. V, page 11)

Probably the most important parts of the design review process is covered in sections 5.1, Pre-Design Conference, and 5.2, Thumbnail Sketch Submittal. These two steps are very cost effective in getting the Owner on the same page with the Architectural Committee. The Committee representatives are always available well in advance to review and discuss the Character Sketches, Palette of Materials and Design Patterns (pgs. 17 thru 28, app. pt. 2). This should be done in conjunction with a tour of the Mesa and discussion of the exterior elements of the homes, including heights, colors and materials. Much of this discussion should happen on site and within the Development Envelope of the parcel in question so that views, topography and tree cover can be assessed to understand the owner's preferences and

other considerations for the best siting of structure(s) within the Envelope. This initial process will get us all thinking along the same lines. It is even wise to take this step in advance of purchasing a parcel so that you have some assurance that what you envision works within the Covenants on the site in question.

Once that Pre-Design dialogue has occurred, the Owner will come back with Thumbnail Sketches. Your architect will be able to generate a simple floor plan and some renderings, but the key is to keep it basic and inexpensive while a concept is being agreed upon. Please read this section (appendix, part 2, pg 12) for the specifics. Once the general concepts are in place, the committee will need to see a topo, site plan, floor plan and four elevations are the basic thumbnail sketches requirements. The elevations need to be specific enough to ascertain the design details, including the use of stone, windows and doors, foundation, roof, colors and any other visible elements. This is the phase to agree upon all of the issues raised in section III, beginning on pg 7, of the Architectural Design Standards.

The remaining steps are clearly spelled out in section V, pgs 11-14. Most of the bigger decisions are made in the first two steps above. The remaining steps are to clearly codify the prior submittals and provide your contractor with working drawings. These steps also include some requirements applicable to the construction phase, as does section IV, pgs 9-11. Once a building permit has been issued by the County, everything will be reviewed by the Committee's construction representative in a meeting with the Owner's contractor to go over the logistics of building on the Mesa.

DUES AND FEES.

During the Thumbnail Sketch phase of the design review process, an architectural review fee of \$750 (or more on larger homes) is due and payable directly to Design Group Architects to cover their plan review services. (appendix, part 2, pg 12).

After the plans have been approved by the Committee, and after a building permit is issued by Garfield County, an impact fee of \$1,500 is due to the Association general fund for the wear and tear put on the roads by your contractor's construction vehicles and equipment.

The Association dues annually at this writing are \$300 for an undeveloped lot and \$600 once the building permit is issued.

ARCHITECTURAL DESIGN STANDARDS. (App, part 2, sec. III, page 7)

These are probably the most important sections of the Covenants in relevant terms. One of the main goals of the Architectural Standards is to let prospective purchasers know that creativity is valued. That is why particular attention should be paid first to the Character Sketches (Schedule One, Design Standards). They are intended to convey a feeling of substance, type and character. They make look and feel expensive, but it is not necessarily so. There are many possibilities, and so long as interesting design is valued, most budgets can be accommodated. The Committee is happy to sit with the Owner to discuss vision, budget, topography of the site and all other relevant considerations proscribed in the Design Standards. Building a home is stressful enough; our goal is to be helpful and make compliance with the Standards as graceful as possible. An open dialogue is essential and it will allow the Owner to get the best possible outcome.

Section 3.1. Architectural Styles and Materials. (appendix, part 2, page 7) This section discusses our design goals in general terms.

Section 3.2. Size. (appendix, part 2, page 7) There is no size limitation up or down. Smaller residences will benefit from added creativity. Larger homes will need to be broken up into smaller, detached forms.

Section 3.4. Height of Structures. The maximum height of structures is 14 feet. (appendix, part 3, amendment 4). Care has been taken to consider height, set backs and tree cover in placing the development envelope in order to mitigate the visibility of structures from the project roads, Town or the Monument, and still provide the owner with the best view corridors. In some cases and on less vulnerable sites, a variance to the height limitation would be considered for certain elements of the structure in order to accommodate design.

Section 3.5. Use of Native Stone (see 4th amendment). This amendment is a must read. It is one of the longest and most explanatory. The reason is because stone is the one common thematic material in the Mesa style--it is organic in

structures if utilized correctly. However, it is understood that stone is expensive and that some may prefer to blend it with other materials. The 50% stone requirement is meant to take this into consideration and the Committee will entertain a variance for even less than 50% where the design is highly competent and integrates the stone in ways that invite the eye and enhance the structure. Just one example, using 50% stone arbitrarily on one flat surface juxtaposed against another material on another flat surface is much less effective than using the stone to buttress the corners. Or as a wainscot. Stone, when combined with wood, metal or stucco in the right design configurations, can produce great results.

Section 3.6. Exterior Colors and Reflectivity (see 4th amendment). The basic premise here is that darker colors are less visible than lighter colors. This is true close up or at a distance. Darker colors simply have fewer visual impacts off-site. Another premise is that multiple colors or mottlings show up less than monotone surfaces and more closely mirror the natural surroundings. However, the temptation is to look at the pink sand at your feet and try to imitate it. But that is not what appears when you back up the hill and change the vantage point to what is generally seen by others. There are exceptions, but in most cases the walls and roofs will be surrounded predominately by the dusky greens, browns, and

charcoal hues of the trees and boulders. An owner can perform a simple experiment with colored cloth to see what colors blend in best at their site.

The LRV or light reflective value of any color will be given weight and any material or color with an LRV exceeding 40 (forty) is prohibited.

Section 3.7 Windows and Skylights (see 4th amendment). Reflectivity is an issue; however, there are plenty of tinted glass choices to abate this. The larger overhangs that are required on pitched roofs will provide shadow, interest and also help break up and mute window surfaces. Light or contrasting trim of any sort on the window frames (or any other trim detail) can not be allowed because those details creates a “candy striping” effect which can be seen at a considerable distance.

Section 3.12 Maximum Roof Pitches. 3 1/2 to 12 is the maximum allowed. Hip roofs at low pitches can work well, particularly when broken into differing sizes and elevations (see character sketches). Flat roofs work well on the Mesa, particularly where stone emerges as the parapet walls. Generally speaking, all roofs, flat or pitched, need to be separated into smaller elements to break up the mass and to keep the roof from reading as a one dimensional, horizontal plane.

Section 3.13 Roofing Materials, Configurations and Colors (see 4th amendment). This section should be read in conjunction with Schedule One, appendix, part 2, Palette of Materials. Many types of roofing materials are approved, generally all in the darker color registers to dampen the visibility, particularly on the lower parcels where the roofs can be viewed from the Mesa rim. The committee has tried to accommodate the popular standing seam metal roofs; however, they will not pass the reflectivity standards and the best of them still produce considerable glare. So only rusted metal and patinaed copper with complete surface coverage to eliminate glare are acceptable in metal.

Section 3.14 Variances (amendment 4). The Architectural Committee is empowered to grant a variance to some of the provisions. A variance will be viewed most favorably when it is accompanied by interesting and stimulating design patterns. Everywhere one looks in today’s western cities, endless housing tracts featuring generic building patterns are in evidence. One of the single biggest goals for the Mesa is to have owners think outside the “box” in order to combine the natural beauty of their site and surroundings with individuality, creative design and material selections.

TREES AND VEGETATION

There are different sections of the CC&Rs and the Architectural Standards that address the cutting and trimming of trees and the removal of vegetation, particularly in the Conservation Easement area. These can be summed up generally as follows:

Trees are obviously one of the most integral assets of any parcel. They offer privacy, definition and habitat. Any cutting or trimming of trees must be done in conjunction with the Committee, whether as part of the building process or subsequent landscaping. It is anticipated that trees will be cut in the Development Envelope once the footprint of the structure(s) has been established. Mature, high value trees should be saved and worked around where possible. They will add dimension and texture to the home and enhance any landscaping that might follow. When the driveways and the Development Envelopes were established, every attempt was made to go around or to exclude these old growth trees and keep them where they would not conflict with access or structures.

Trees in the Transition Zone can be cut or trimmed, and in many cases they should, but only for good cause. To thin and open up views or assist a well designed landscaping plan is considered good cause. Trimming is a first resort in this effort; cutting down the last resort. Clear cutting to open a view will not be approved.

Trees in the Conservation Easement cannot be cut unless they have died and need removal. Old growth juniper “snags” which appear sculptural will not be removed even though they are long dead.

No trees can be cut anywhere on any parcel without flagging them, consulting with the committee, and coming to a mutual agreement. The Association has sanctions in place for violations of this Covenant.

SITE PLANNING, LANDSCAPE GUIDELINES (appendix, part 2, sec. III, page 4)

This section of the Design Standards covers several different areas, some of which were covered in the definitions and elsewhere. It is relatively straightforward and much of it will be of interest to you and your contractor. (Drainage, parking, utilities access, walls and fencing, landscaping.) Other portions discuss amenities you may or may not find relevant depending upon your design and accessories (antennas, buried tanks, etc).

CONSTRUCTION REGS AND DESIGN REVIEW (App, part 2, sec. III, page 9)

The construction regulations cover basic protections for the site and for other owners in terms of how the owner’s contractor and crew need to treat the site and conduct themselves while on the roads or other parts of the property. Once the plans have been approved by the Committee and a building permit secured from the county based upon those approved plans, the Committee’s construction representative will meet with the Owner’s contractor to review these sections and help with systems for delivery and storage of building materials in our construction yard.

Much of the Design Review was discussed earlier. Once the pre-design meeting and the thumbnail sketch phases are complete, the Owner will have a good idea of what is required for working drawings (appendix, part 2, sec. III, page 12).

PART 3 - THE COVENANTS, CONDITIONS AND RESTRICTIONS
(appendix, part one, sections 1 through 13)

This is the first half of the CC&Rs, part one of the appendix, that legally binds the property, enables the Property Owner's Association and Architectural Committee, assesses dues and collects them, establishes the respective rights and duties of the Owners, defines the nature of the parcels and the project and the uses of the residences, provides for the care and maintenance of the roads and infrastructure, insurance, and many other provisions necessary to comply with the law.

Unlike the Design Standards, the CC&Rs themselves are not particularly unique or atypical. It is worth reviewing them, but it is not likely that there will be any surprises. If a prospective buyer or an Owner is going to devote time studying a portion of the recorded covenants, that time will be best spent on the Design Standards and Character Sketches. This is where the stylized nature of the project comes to the fore and tells a prospective buyer whether the Mesa is suited to their needs or not.

What follows is the appendix consisting of the CC&R's, Residential Design Standards, amendments, a typical conservation easement deed and the organizing documents for the Property Owner's Association.