



EMPIRE PASS



BOOK FOUR

*Design and Construction Review
Process and Appendices for*

ALL BUILDING TYPES

April 2004

Preface

This document, *Book IV: Design and Construction Review Process and Appendices for all Building Types*, constitutes part four of the Design Guidelines (Guidelines) for Empire Pass.

These Guidelines have been created to ensure that all Improvements at Empire Pass preserve the natural beauty of the surrounding mountain landscape and contribute to a cohesive architectural style. The Design Guidelines explain the architectural aesthetics and site considerations that are to guide the design and construction all new buildings, building additions, site work, and landscaping within Empire Pass. The review and approval of all building and site Improvements are subject to the discretion of the Design Review Board (DRB) as described in these Guidelines.

Separate Guideline documents (Books I, II and III) exist for each building type (Custom Home, Condominium Lodge and Townhouse/Cluster Home), as described below. In addition, a separate Guideline document (Book IV) exists to establish and explain the construction process, organization of the Design Review Board, and the design review process. All four documents are collectively referred to as the Design Guidelines:

Book I: Site, Landscape and Architectural Design Guidelines for Custom Homes

Book II: Site, Landscape and Architectural Design Guidelines for Townhouse and Cluster Home Units

Book III: Site, Landscape and Architectural Design Guidelines for Condominium Lodges

Book IV: Design and Construction Review Process and Appendices for all Building Types

The Design Guidelines package for each Owner is made up of two documents: one of Books I, II or III (depending on the applicable building type) and Book IV. The illustrations provided in the Design Guidelines are intended to convey concepts, and not to depict specific plans for construction.

The Guidelines will be administered and enforced by the Empire Pass Design Review Board in accordance with the procedures set forth in the Master Declaration of Covenants, Conditions and Restrictions (CC&Rs) for Empire Pass. The Guidelines may be amended from time to time, as deemed necessary by the DRB. In the event of any conflict between the Design Guidelines and the CC&Rs, the CC&Rs shall govern and control.

It is the Owner's responsibility to ensure they have the most current edition of the Guidelines and have carefully reviewed all applicable sections of the CC&Rs. These Guidelines are binding on any persons, company or firm that intends to construct, reconstruct or modify any permanent or temporary Improvements at Empire Pass.

All capitalized terms used in these Design Guidelines are defined in Appendix A.

Approved and adopted at Master Home Owner's Association meeting, April 14, 2004.

Addenda Pages

The following Sections of the Empire Pass Design Guidelines have been superseded by any previous issue of the Empire Pass Design Guidelines. These Sections have been incorporated into this issue of the Guidelines.

It is the Owner's responsibility to ensure that they have all current Guidelines and/or Addenda from the DRB.

Chapter 2 - Site and Landscape Guidelines

- Section 2.6 Pre Design Conference (October 2007)
- Section 2.7.1 Conceptual Submissions (October 2007)
- Section 2.7.2 Preliminary Design Review Submission Materials (October 2007)
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1.0

Design Review Board Organization

The following chapter describes the organization of the Design Review Board, including its membership, functions and powers. For a complete description of the powers and limitations of the DRB, Owners are to refer to the Master Declaration of Covenants, Conditions and Restrictions (CC&Rs) for Empire Pass.

1.1 DESIGN REVIEW BOARD MEMBERSHIP

The DRB consists of at least three, but no more than seven, members appointed by the Declarant or later by the Master Association at such time as the Declarant's Class B Membership has been terminated. The Declarant or Master Association shall endeavor to select individuals whose occupations or education will provide technical knowledge and expertise relevant to matters within the DRB's jurisdiction.

The DRB may avail itself of technical and professional advice and consultants as it deems appropriate.

1.2 DRB MODIFICATIONS COMMITTEE

At its discretion, the Declarant may establish a Modifications Committee as a subcommittee of the DRB. The Modifications Committee shall deal solely with changes to structures and Improvements that have previously been approved by the DRB and subsequently constructed. If the Declarant elects not to appoint a Modifications Committee, the DRB shall continue to review and approve such modifications.

1.3 APPOINTMENT AND TERM OF MEMBERS

The term of office of each DRB member is three years, with the exception of the first three DRB members who will hold terms of one, two and three years, respectively. Terms commence on January 1 and will be staggered so that one term expires each year. The Declarant may remove any member of the DRB at any time for any cause (or for no cause) without notice.

1.4 FUNCTIONS AND PURPOSE OF THE DESIGN REVIEW BOARD

The design review process is intended to be a collaborative effort between Owners, their Consultants and the DRB. The DRB will work with Owners as a member of their team to ensure designs both meet the Owner's desires and respect the design objectives of Empire Pass, as described throughout the Design Guidelines.

The DRB shall review, study and either approve, disapprove and/or request resubmittal of additional information with respect to all proposed Improvement to a Lot or Parcel in compliance with the CC&Rs and Design Guidelines. The DRB shall also perform any other duties assigned to it by the Declarant as set forth in this document and the CC&Rs.

The DRB shall meet from time to time, as needed to perform its duties. The affirmative vote of a majority of the members of the DRB shall govern its actions. A quorum will consist of a majority of the members.

1.5 AMENDMENT OF THE DESIGN GUIDELINES

The Design Review Board has the right to modify and/or amend the Design Guidelines from time to time as deemed necessary.

Each Owner is responsible for obtaining a copy of the most current edition of the Design Guidelines.

1.6 NON-LIABILITY

The Design Review Board shall use reasonable judgment in approving or disapproving all submitted plans and specifications. Neither the Design Review Board, nor any individual member, shall be liable to any person for any official act of the DRB in connection with submitted plans and specifications, except to the extent the DRB or any individual DRB member acted with gross negligence or were guilty of willful misconduct. Approval by the Design Review Board does not necessarily assure approval by the appropriate Municipal Authority. Notwithstanding its approval of any plans and specifications, neither the Design Review Board nor any of its members shall be responsible or liable to any Owner, developer, or contract holder with respect to any loss, liability, claim or expense which may arise by reason of such approval of the construction of any Improvements.

2.0

Design Review Process

The design review process has been developed to insure that all new construction, alterations and renovations to existing buildings and major site Improvements conform to the guiding principles of Empire Pass as outlined in these Design Guidelines. The design review process has been structured to eliminate excessive delays. The DRB suggests that Owners begin the review process early to allow ample time to obtain required approvals and building permits. When reviewing design and construction projects, the DRB will look for compliance with the standards, goals and principles outlined in the Design Guidelines. This design review process is to be followed for any of the Improvements listed in Section 2.1 below.

2.1 PROJECT TYPES TO BE REVIEWED

DRB review and approval is to be obtained for all project types listed below, whether for a Custom Home, Condominium, Townhouse or Cluster Home.

- *New Construction* – Construction of any new, freestanding structure, whether as a Residence, Accessory Building or landscape structure.
- *Alterations, additions or rehabilitation of an existing structure* – Any new construction or rehabilitation to an existing building or landscape structure that alters the original Massing, exterior finishes, window placement, roof design, exterior lighting, interior lighting visible from off-site and/or other significant design elements.
- *Major site and/or landscape Improvements* – Any major Improvements or changes to Improvements, including, but not limited to, grading (for any excavation and/or fill involving more than 50 cubic yards of dirt), planting and re-vegetation plans, tree removal, irrigation, swimming pools, driveways, fencing and/or drainage, that alter an existing landscape.

The DRB evaluates all development proposals on the basis of the Guidelines. Some of the Guidelines are written as broad standards and the interpretation of these standards is left up to the discretion of the DRB.

2.2 DESIGN REVIEW PROCESS OVERVIEW

Empire Pass's design review process, unless otherwise noted takes place in five steps:

1. Pre-Design Conference (see Section 2.6)
2. Preliminary Design Review (see Section 2.7)
3. Final Design Review (see Section 2.8)
4. Construction Monitoring (see Section 3.3)
5. Final Construction and Landscape Observations (see Section 3.4)

Any Improvement as described in Section 2.1 above will require and be preceded by the submission of plans, specifications and an application fee. The Owner is to retain competent assistance from an approved Architect, Landscape Architect, Structural Engineer, Civil Engineer, Contractor and any other Consultants as necessary (Refer to Section 2.5). The Owner and Consultants are to carefully review the CC&Rs and Design Guidelines prior to commencing with the design review process.

Having secured final design approval from the DRB, the Owner is to also meet all submittal and approval requirements of Park City and any other requisite Municipal Authorities.

The Owner is to commence construction within one year of final design approval from the DRB. If the Owner fails to begin construction within this time period, the approval may be revoked by the DRB. All landscape Improvements are to be installed within one year of occupancy. Written approval from the DRB is required prior to any time extensions for construction and/or landscape installation.

2.3 DESIGN REVIEW PROCESS – MINOR IMPROVEMENTS

Minor Improvements (including, but not limited to, the construction of, installation of, or addition to landscaping, satellites, fences, walls and/or enclosure structures), which are being completed independent of any major Improvements as listed in section 2.1 above, do not need to proceed through all five steps of the general design review process. Minor Improvements may often be submitted as part of a two-step review process:

1. Final Design Review
2. Construction Monitoring
3. Final Observation

Specific submission requirements and application fees (See Section 2.18) will be determined on a case-by-case basis as required by the nature of the Improvement. Owners and/or Consultants are to contact the DRB to verify whether an Improvement qualifies for the abbreviated design review process. Upon receipt of permission to proceed with an abbreviated process, the Owner and/or Consultant will obtain a list of specific submission requirements from the DRB.

2.4 ACTIONS AND APPROVALS

The DRB's action on matters is to be by a majority vote of the DRB. The DRB will keep and maintain a record of all actions taken by it.

If an Owner disagrees with the DRB's written conclusions from a meeting or application, the Owner and/or Consultant(s) is to list in writing, which portions of the written record require clarification or correction. The DRB will then review the list and either amend the record accordingly or let it stand, while noting the issues raised by the Owner and/or Consultant(s). In the latter case, a subsequent meeting may be held between the Owner and the DRB to resolve the difference in interpretation. However, the decision of the DRB will be final.

The powers of the DRB relating to design review will be in addition to all design review requirements imposed by the appropriate Municipal Authorities.

2.5 APPROVED DESIGN PROFESSIONALS

The design team is to be comprised of the Owner, DRB and the following Consultants, all of whom are to be registered within the State of Utah:

- Architect
- Landscape Architect
- Structural and Civil Engineers
- Contractor
- Additional professional Consultants as required

Prior to scheduling the Pre-Design Conference, the following actions are to be taken by the Owner's Consultants:

- The Architect, Landscape Architect and Engineers are to provide the DRB with a copy of their license and/or the license of their firm to practice in Utah.
- The Architect and Landscape Architect are to review all applicable Design Guidelines documents for Empire Pass.

- The Architect and Landscape Architect are to review the zoning and building regulations for Park City.
- The Architect and Landscape Architect are to provide the DRB with a signed Affidavit (form available from the DRB office), certifying that they have reviewed and understood the documents referred to above and will comply with their provisions.

2.6 PRE-DESIGN CONFERENCE

Prior to preparing any drawings for proposed Improvements (as described in Section 2.1), Owners, their Architect and Landscape Architect are to meet with a representative of the DRB on the Lot in question to discuss proposed plans and to resolve any questions regarding building requirements. In some cases, at the discretion of the DRB, this meeting may be conducted by a conference call.

This meeting will initiate the review and approval process. The parameters and directives identified at each Pre-Design Conference remain valid for one year. If the submittal of a preliminary design does not occur within twelve months of the Pre-Design Conference, a supplementary Pre-Design Conference may be required to review any changes in site conditions and/or revisions to the Design Guidelines.

The following information and materials, as appropriate, are required at the Pre-Design Conference:

1. *Lot Diagram* – as provided by Empire Pass.
2. *Survey* – a property survey showing existing topography at one-foot contour intervals is to have been obtained by the Owner prior to the Pre-Design Conference. The survey is to include tree locations, species and caliper size, existing utilities, property lines, easements and other legal encumbrances.

Additional information may be requested by the DRB as necessary to describe the project.

2.7 PRELIMINARY DESIGN REVIEW

The Preliminary Design Review is to be scheduled within twelve months of the Pre-Design Conference. During the Preliminary Design Review, the DRB will review application submissions to ensure that:

- All structures are sited to step with the topography, blend into the landscape and minimize grading and site impact.
- The transition between the building and the surrounding environment accomplishes the intent and specifics of the Guidelines.
- Building massing, roofs, materials and other site and architectural Improvements are consistent with the Design Guidelines and any adjacent buildings and/or outdoor amenities.

2.7.1 CONCEPTUAL SUBMISSIONS

Owners and/or their Consultants are to submit sketches and/or conceptual designs for DRB feedback prior to submitting for Preliminary Design Review. On sensitive sites and projects, the DRB may, at its discretion, require an Owner to submit conceptual plans for review prior to Preliminary Design Review.

2.7.2 PRELIMINARY DESIGN REVIEW SUBMISSION MATERIALS

The Preliminary Design Review package is to adequately convey (as appropriate and applicable) existing site conditions, constraints, building orientation and design, vehicular and pedestrian access, the proposed use of exterior materials and the conceptual landscape design. All architectural plans are to be prepared by an approved Architect. All landscape plans are to be prepared by a licensed Landscape Architect. The package is to include one full set and one half set of plans and accompanying documents. Applications are to be submitted a minimum of 14 days prior to the desired meeting date. A preliminary design submittal will not be considered complete until the DRB has received the following materials:

1. *Application Form and Fee* – a completed application form as obtained from the DRB office. At this time the design review fee is to be paid in full (see Section 2.17).

2. **Property Survey** – (1" = 50'-0" minimum scale; Lots less than one acre in size are to be at a minimum scale of 1" = 10'-0") a property survey prepared by a licensed surveyor indicating property boundaries, the Improvement Envelope (Custom Home Lots), the area of the property and the Improvement Envelope, all easements of record, utility locations, all existing trees, rock outcroppings and any significant drainages, as applicable.
3. **Site Plan** – (1" = 10'-0" minimum scale; Lots greater than an acre in size need only show Improvement areas) location of the Improvement Envelope (Custom Home Lots), existing topography, proposed grading, conceptual drainage, the building outline, proposed finished floor elevations, garage and guest parking, driveway, snow push zones, storage areas, utilities, transformers and similar devices, terraces, patios, all trees, all clusters of native shrubs and special terrain features to be preserved.
4. **Floor Plans** – (1/8" = 1'-0" minimum scale) for all proposed structures, including proposed uses; wall, door and window locations; overall dimensions; finished floor elevations; total square footage of all floors and the Gross Floor Area.
5. **Roof Plans** – (1/8" = 1'-0" minimum scale) for all proposed structures, including roof pitches, materials and the location of chimneys, satellites and other roof projections.
6. **Exterior Elevations** – (1/8" = 1'-0" minimum scale) showing both existing and proposed grade lines, plate heights, ridge heights, roof pitch and a preliminary indication of all exterior materials and colors. In addition to black and white elevations, one unbound set is to be rendered in color and illustrate shadows.
7. **Site Sections** – (1" = 20'-0" minimum scale) showing proposed buildings in relation to the surrounding site, including adjacent buildings and roads, Building Heights, finished floor elevations, existing and finished grades. This drawing is to clearly indicate how the proposed design conforms to Building Height requirements.

8. *Study Model* – (1" = 20'-0" minimum scale) illustrating the relationship between proposed and existing building forms and topography (minimum 2-foot contours), tree heights and prevailing site conditions.
9. *Conceptual Landscape Plan* – (1" = 10'-0" minimum scale) a conceptual plan showing irrigated areas, conceptual drainage courses, planting areas, a preliminary plant list, extent of lawns, areas to be revegetated, the fire safety zone, water features, patios, decks, courtyards, schematic utility layout, service areas and any other significant design elements.
10. *Tree Report* – a tree report obtained from a licensed arborist or forester evaluating the health and structural integrity of all 6-inch caliper diameter at breast height (DBH) or greater trees within 30 feet of proposed construction, including grading operations and staging areas. The report is to include recommendations for tree protection measures to be implemented prior to and during construction.

The DRB reserves the right to amend Preliminary Design Review submission requirements on a case-by-case basis as required by conditions and considerations particular to each Lot and/or Improvements. Once a complete submission has been received, the DRB will notify the Owner in writing of its receipt and schedule the Lot for the next available Preliminary Design Review meeting.

2.7.3 STAKING AND TREE TAPING

Upon submittal of the Preliminary Design Review Application, the Owner is to stake the corners of the Improvement Envelope (Custom Home Lots), proposed buildings, any proposed building additions, driveway centerlines and all other major Improvements. Ridgeline flagging is to indicate proposed Building Heights at all major ridgelines. The Preliminary Design Review submission will not be considered complete until the building footprint, ridgelines and driveway are staked.

Trees proposed for removal are to be marked in the field with red tape. Trees to be pruned and/or limbed are to have blue tape tied to the limb and/or area of trimming. Trees proposed for transplanting are to be taped with yellow ribbon and a stake placed in the proposed location of transplant.

2.7.4 PRELIMINARY DESIGN REVIEW MEETING

Upon receipt of a complete submission, the Preliminary Design Review will be scheduled for the next available meeting (see Section 2.16 for DRB schedule). The DRB will review and comment on the application at the meeting and will subsequently provide the Owner with the conclusions of the meeting in writing within 14 days of the meeting. Owners and their Consultants are strongly encouraged to attend the meeting.

The comments of the DRB on the preliminary submittal shall be advisory only and shall not be binding upon the DRB. A second review meeting may be necessary to review corrected and/or new materials. Corrected materials are to be provided to the DRB within 60 days of the Preliminary Design Review meeting. An additional design review fee may be required by the DRB for any resubmission.

2.8 FINAL DESIGN REVIEW

The Final Design Review is to be scheduled within twelve months of Preliminary Design Review approval. During the Final Design Review, the DRB will review plan submissions to ensure that:

- Any critical issues discussed at the Preliminary Design Review have been addressed and resolved.
- Building details, materials and colors are appropriate for the site and comply with the Design Guidelines.
- All other Improvements are designed in accordance with the Design Guidelines.

2.8.1 FINAL DESIGN REVIEW SUBMISSION MATERIALS

The Final Design Review package is to adequately convey (as appropriate and applicable) existing site conditions, constraints, building orientation and proposed Improvements. All architectural plans are to be prepared by an approved Architect. All landscape plans are to be prepared by a licensed Landscape Architect. The package is to include three full-size and two half-size sets of plans and accompanying documents. Applications are to be submitted a minimum of 14 days prior to the desired meeting date. A preliminary design submittal will not be considered complete until the DRB has received the following materials:

1. *Application Form* – a completed application form as obtained from the DRB office.
2. *Site Plan* – (1" = 10'-0" minimum scale; Lots greater than one acre in size need only show Improvement areas) showing location of the Improvement Envelope (Custom Home Lots), existing topography, proposed grading, all buildings, finished floor elevations, the driveway, address marker, utilities, transformers and similar devices, culverts, drainage channels, parking area, outdoor areas, snow push zones and storage areas, protected plants and terrain features, trees to be removed, utility sources and connections, site walls and any other Improvements, as appropriate.
3. *Grading, Drainage and Erosion Control Plans* – (1" = 10'-0" minimum scale)

showing existing and proposed grades, all drainage structures and/or other drainage design solutions, and cut and fill calculations. Plans are to also indicate the size of stockpiles, where they are to be located on the Construction Site and the length of time they will remain. The extent and location of sediment fencing and other measures taken to control erosion during grading and construction are also to be indicated.

4. **Landscape Plans** – (1" = 20'-0" minimum scale) including irrigation plans with locations of main irrigation lines, areas of automatic irrigation, type of controls and heads; proposed plant materials, sizes, and locations; trees to be removed; tree protection plan; areas of planting, water features, patios, decks, courtyards, utility layout, service areas and any other significant design elements; top and bottom of wall elevations; and material specifications.
5. **Lighting Plan** – (1/8" = 1'-0" minimum scale) including locations of all exterior architectural and landscape light fixtures. Cut sheets are to be submitted for all proposed fixtures and bulb types, including wattage specifications.
6. **Floor Plans** – (1/8" = 1'-0" minimum scale) for all proposed structures, including proposed uses; wall, door and window locations; overall dimensions; finished floor elevations; the total square footage of all floors and the Gross Floor Area.
7. **Roof Plans** – (1/8" = 1'-0" minimum scale) for all proposed structures, including roof pitches, materials and the location of chimneys, satellites and other roof projections.
8. **Building Sections** – (1/8" = 1'-0" minimum scale) indicating existing and proposed grades and finished floor, ceiling plate and ridgeline elevations.
9. **Exterior Elevations** – (1/8" = 1'-0" minimum scale) showing both existing and proposed grade lines, ridge heights, roof pitch, exterior materials and colors. In addition to black and white elevations, one unbound set is to be rendered in color and illustrate shadows.

10. *Details* – (1/4" = 1'-0" minimum scale) details of doors, windows, rafter tails, truss elements, rails, wall openings, retaining walls, address marker identification sign (if proposed) and other architectural elements that establish and further describe the character and overall style of the house. Details illustrating the method of screening of utilities, transformers and other similar devices are to be submitted as well.

11. *Sample Board* – samples of all exterior materials and colors, including:

- *Roofs*
- *Exterior trim*
- *Doors*
- *Fences*
- *Paving*
- *Wall siding*
- *Windows*
- *Stone treatments*
- *Railings*

12. *Construction Schedule* – include start and completion dates for both construction and landscape installation.

The DRB reserves the right to amend Final Design Review submission requirements on a case-by-case basis as required by conditions and considerations particular to each Lot and/or Improvement. Once a complete submission has been received, the DRB will notify the Owner in writing of its receipt and schedule the Lot for the next available Final Design Review meeting.

2.8.2 FINAL DESIGN REVIEW MEETING

Upon receipt of a complete submission, the Final Design Review will be scheduled for the next available meeting (see Section 2.16 for DRB schedule). The DRB will review and comment on the application at the meeting and will subsequently provide the Owner with the conclusions of the meeting in writing within 14 days of the meeting. Owners and their Consultants are strongly encouraged to attend the meeting.

A second review meeting may be necessary to review corrected and/or new materials. Corrected materials are to be provided to the DRB within 60 days of the Final Design Review meeting. An additional design review fee may be required by the DRB for any resubmission. Refer to Section 2.17.

Final design approval must be obtained from the DRB prior to submitting to the Municipal Authorities for all applicable building permits. Final design approval is valid for 12 months from the date of notification. If final design approval expires, Owners are to repeat the Final Design Review unless waived by the DRB.

2.9 CITY APPROVAL

The Owner is to apply for all applicable building permits from the Park City Municipal Authorities. Any adjustments to DRB-approved plans required by the City are to be submitted to the DRB for review and approval prior to commencing construction. The issuance of any approvals by the DRB does not imply corresponding compliance with the legally required demands of other agencies.

No materials, tools, temporary offices or portable toilets, excavation or construction equipment or similar materials or equipment may be delivered to the site prior to the issuance of all building Permit(s) and completion of the Pre-Construction Conference (Refer to Section 3.1).

2.10 SUBSEQUENT CHANGES

Subsequent construction, landscaping or other changes in the intended Improvements that differ from approved final design documents, sample boards or the mock-up are to be submitted to the DRB for review and approval prior to making changes.

2.11 CONSTRUCTION REVIEW OBSERVATIONS

During construction, the DRB will check construction to ensure compliance with approved final design documents. These observations are specified in Sections 3.3 & 3.4 of this document. If changes or alterations have been found that have not been approved, the DRB will issue a Notice to Comply.

2.12 FIRE SAFETY COMPLIANCE INSPECTIONS

The use of Class-A wood shake shingle in Empire Pass is to strictly adhere to all fire safety standards and procedures established by Park City, any other applicable Municipal Authorities and the DRB. The DRB will conduct periodic inspections of all roofs, subsequent to initial construction, to insure ongoing compliance with these fire safety standards. Inspections will be conducted according to the following procedures:

1. A DRB representative will inspect buildings for continued compliance with fire safety standards, as approved by Park City and the DRB. Owners will be notified of the pending inspection a minimum of 7 days prior to the inspection.
2. If the building's roof (or any other element subject to prescribed fire safety standards) is found to be out of compliance, the DRB will issue a Notice to Comply.
3. Upon receipt of the Notice to Comply, Owners have up to 10 days to remedy the non-compliance.
4. If the non-compliance has not been corrected within the allotted time period, the DRB will: a) issue a fine in an amount determined by the DRB, b) take steps to rectify the non-compliance with expenses charged to the Owner, and c) place a lien on the property.

2.13 NOTICE TO COMPLY

When as a result of construction monitoring/observations the DRB finds changes and/or alterations that have not been approved or a non-compliance with the Construction Guidelines (see Chapter 6), the DRB will issue a Notice to Comply within three (3) working days of the observation. The DRB will describe the specific instances of non-compliance and will require the Owner to comply or resolve the discrepancies.

2.14 NOTICE OF COMPLETION

Notice of completion takes place in two parts, as described below:

2.14.1 COMPLETION OF CONSTRUCTION

Upon completion of construction, the Owner and/or Contractor are to give written notice to the DRB requesting a Final Construction Observation (see Section 3.4). The DRB will make a final inspection of the property within 7 working days of notification. If construction is complete and in compliance with DRB-approved plans and the Design Guidelines, the DRB will issue a Conditional-Notice of Completion (subject to completion of landscape installation) within 7 working days. The Owner is not to take occupancy of any Improvement(s) until final construction approval is obtained from the DRB or until such time as an appropriate bond has been filed with the DRB. If it is found that the work was not done in compliance with the approved final design documents, the DRB will issue a Notice to Comply, specifying the particulars of noncompliance, within 7 working days of the observation. All non-complying Improvements are to be promptly corrected within 30 days of the observation.

2.14.2 COMPLETION OF LANDSCAPE INSTALLATION

Upon completion of landscape installation, the Owner and/or Contractor are to give written notice to the DRB requesting a Final Landscape Observation (see Section 3.4). The DRB will make a final landscape inspection within seven 7 working days of notification. If landscaping is complete and in compliance with DRB-approved plans, the DRB will issue in writing a Notice of Completion within 7 working days. If it is found that the work was not done in compliance with the approved final design documents, the DRB will issue a Notice to Comply within 7 working days. All non-complying Improvements are to be promptly corrected within 30 days of the observation.

The Compliance Bond will be released within 30 days of the DRB's issuance of the Notice of Completion.

2.15 RIGHT OF WAIVER

The DRB has the authority to approve deviations from portions of the Guidelines that are not mandated by the Municipal Authorities. Any request to deviate from these Guidelines will be evaluated at the sole discretion of the DRB. Prior to the DRB approving any deviation from the Design Guidelines, it must be demonstrated that the proposal is consistent with the overall objectives of the Guidelines and will not adversely affect neighboring properties or Empire Pass as a whole.

2.16 NON-WAIVER, NO INADVERTENT PRECEDENTS

The DRB's approval 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. For example, the DRB may disapprove an item shown in the final design submittal even though it may have been evident and could have been, but was not, disapproved at the Preliminary Design Review. Failure to enforce any of these Design Guidelines shall not constitute a waiver of same. An oversight by the DRB of non-compliance at anytime during the review process, construction process or during its final inspection does not relieve the Owner/Developer from compliance with these Guidelines and all other applicable codes, ordinances and laws.

2.17 DESIGN REVIEW SCHEDULE

The DRB will make every reasonable effort to comply with the time schedule for design review. However, the DRB will not be liable for delays that are caused by circumstances beyond its control. The DRB will provide design review according to the following schedule:

1. *Pre-Design Conference*

- Meeting scheduled within 14 days of receipt of Pre-Design Conference request form.

2. *Preliminary Design Review*

- Application documents to be submitted 14 days prior to the next scheduled DRB meeting and within one year of Pre-Design Conference.
- Written confirmation of submission and meeting schedule sent to Owners once submission is complete.
- Written comments provided to Owner within 14 days of Preliminary Design Review meeting.
- A second review meeting may be necessary to review corrected and/or new materials. Corrected materials will be provided to the DRB a minimum of 60 days after the Preliminary Design Review.

3. *Final Design Review*

- Application documents to be submitted 14 days prior to the next scheduled DRB meeting and within one year of preliminary design approval.
- Written confirmation of submission and meeting schedule sent to Owners once submission is complete.
- Written comments provided to Owner within 14 days of Final Design Review meeting.
- A second review meeting may be necessary to review refinements, revisions and/or new materials. These materials will be provided to the DRB a minimum of 60 days after the Final Design Review.

4. *Minor Improvement*

- Application documents to be submitted a minimum of 7 working days prior to the next scheduled DRB meeting.
- Written comments from the DRB meeting provided to Owner within 30 days of receipt of submission.

5. *Building Permits*

- Owner applies to the appropriate Municipal Authority for all applicable building and use permits.

6. *Construction Monitoring*

- Pre-Construction Conference scheduled within 7 working days of receipt of written request and within one year of final design approval. (Refer to Section 3.1.)
- Site Observation with the Contractor prior to any site disturbance and within 7 working days of receipt of written request. (Refer to Section 3.3.1.)
- Foundation / Mock-Up Observation within 7 working days of receipt of written request. (Refer to Section 3.3.2.)
- Framing Observation within 7 working days of receipt of written request. (Refer to Section 3.3.3.)

7. Final Observations

- Final Construction Observation within 7 working days of receipt of written request and prior to request for a Certificate of Occupancy.
- Conditional Notice of Completion issued within 7 working days of approved Final Construction Observation.
- Final Landscape Observation within 7 working days of receipt of written request.
- Notice of Completion issued within 7 working days of approved Final Landscape Observation.

8. Release of Compliance Deposit

- Compliance Deposit released within 30 days of issue of Notice of Completion.

2.18 APPLICATION FEES

In order to defray the expense of reviewing plans, monitoring construction and related data, and to compensate consulting Architects, Landscape Architects and other professionals, these Guidelines establish a total fee for each type of Improvement submittal (refer to Section 2.1) payable upon submittal of the initial project application. Fees for resubmission may also be required by the DRB on a case-by-case basis. Application fees may be amended from time to time, as needed. A current fee schedule may be obtained from the DRB office.

3.0

Construction Guidelines

To assure the construction of any Improvement within Empire Pass occurs in a safe and timely manner without damaging the natural landscape and while minimizing disturbance to residents or guests, these Guidelines will be enforced during all Construction Activities. The Owner of a Lot or Parcel shall be responsible for violations of the Design Guidelines (including the construction regulations contained herein) by any Contractor, subcontractor, agent, or employee performing any activities on behalf of the Owner within Empire Pass, whether located on the Lot or elsewhere in the Resort.

3.1 PRE-CONSTRUCTION CONFERENCE

The Pre-Construction Conference is to be held within one year of final design approval and prior to beginning site set-up. All conditions of final design approval are to be met prior to scheduling the Pre-Construction Conference. During this meeting, the Contractor meets with an authorized representative of the DRB to review the approved final plans, the Construction Area Plan, the Construction Guidelines, and to coordinate scheduling and construction activities with the DRB. Seven (7) working days prior to the requested meeting date, the Applicant is to prepare and submit the following to the DRB:

- Compliance Deposit
- Signed Contractor Affidavit (available from DRB Office)
- Building permit and any related use permits from Park City
- Two (2) copies of the Construction Area Plan (see Section 3.2)
- Construction sign details (see Section 3.25)
- Contractor Emergency Contact Information Sheet
- Proof of insurance (see Section 3.23)
- Sewer permit from the Snyderville Basin Sewer District
- Construction schedule

3.2 CONSTRUCTION AREA PLAN

Prior to the Pre-Construction Conference, the Contractor is to provide the DRB with a detailed Construction Area Plan, showing the area in which all Construction activities will be confined, and how the remaining portions of the Lot will be protected. Access during all stages of construction, including post-framing construction, is to be addressed to insure the continued protection of existing trees. Construction Activities are to be limited to within 30 feet of proposed structures with the exception of access drives and utility Improvements.

The Construction Area Plan is to indicate the following:

- Type, size and color of the construction trailer or portable office (Section 3.14).
- Extent of construction fencing (Section 3.12)
- Extent of tree protection fencing (Section 3.20)
- Location and size of the construction storage area (Section 3.9)
- Vehicular access route (Section 3.7)
- Parking areas (including maximum number of vehicular parking spaces) (Section 3.8)
- Transportation Plan (Section 3.8)
- Locations of the chemical toilet, temporary trailer/structure, dumpster and debris storage and fire fighting equipment (Sections 3.13 through 3.17)
- Fueling and staging areas (Section 3.17)
- Areas of utility trenching (Section 3.12)
- Limit of excavation, drainage patterns and erosion control measures (Section 3.18)
- Location and size of stockpiles and the length of time stockpiles are to remain (Section 3.18)

The DRB may approve the Construction Area Plan with or without conditions, or require changes to be made and the revised plan resubmitted.

3.3 CONSTRUCTION MONITORING

In addition to any construction and/or building inspections required by Park City Municipal Authorities, the following construction observations are to be scheduled with the DRB:

3.3.1 SITE OBSERVATION

This observation includes review of staking of the Construction Area (as shown on the Construction Area Plan) including all corners of proposed buildings, driveways and extent of grading. In addition, flagging of all protected areas will be reviewed. A water meter and backflow preventor is to be properly installed prior to the Site Observation to ensure water is available for construction. This observation is to occur prior to the start of any Construction Activity.

- To schedule this meeting, the Contractor is to submit to the DRB a Construction Monitoring Request Form 7 working days prior to the requested meeting date.
- Within 3 working days of the observation, the DRB issues either an approval or a Notice to Comply. In the event a Notice to Comply is issued, the Contractor is to rectify the discrepancies found and schedule an additional observation.

3.3.2 FOUNDATION / MOCK-UP OBSERVATION

This observation occurs after foundation work is completed. During the Site Observation, the Contractor and DRB representative will determine the construction milestone that triggers the Foundation / Mock-Up Observation. Prior to this observation, a full-scale mock-up (minimum 4 foot by 6 foot), which accurately conveys all proposed exterior materials, colors, and detailing, including window, corner and trim details and/or details of areas where one material changes to another, is to be constructed. In order to adequately evaluate color and reflectivity, mock-ups are to be placed south facing, in full sunlight.

- To schedule this meeting, the Contractor is to submit to the DRB a Construction Monitoring Request Form 7 working days prior to the requested meeting date.

- An Improvement Location Certificate (ILC) is to be submitted to the DRB along with the Construction Monitoring Request Form. The ILC is to be prepared by a licensed surveyor and is to confirm the height and location of foundations are consistent with that approved by the DRB.
- During this observation, the DRB will look at the general site conditions and confirm they are consistent with that agreed upon at the Site Observation and with the Construction Area Plan. The DRB recognizes that the excavation and foundation phase of construction impacts the site substantially. However, by this stage of construction, the Contractor is to have the site orderly, safe and clean, with the following completed:
 - Drainage in place
 - Foundations backfilled
 - Trenches filled
 - Rough grading completed and mulched
- If there are to be exceptions due to construction sequencing, they are to be discussed with and approved by the DRB representative during the Site Observation and when scheduling this inspection.
- The DRB will review the on-site mock-up and either approve it or issue a letter stating which elements or materials are not approved for use and note a time by which the mock-up is to be revised and reviewed by the DRB. If the Contractor cannot meet the schedule for completion, he/she is to submit an alternate timeline, which the DRB may, or may not, approve.
- Within 3 working days, the DRB issues either an approval or a Notice to Comply. In the event a Notice to Comply is issued, the Contractor is to rectify the discrepancies found and schedule an additional observation.

3.3.3 FRAMING OBSERVATION

This observation occurs is scheduled once the building's core and shell have been framed:

- To schedule this meeting, the Contractor is to submit to the DRB a Construction Monitoring Request Form 7 working days prior to the requested meeting date.
- An updated Improvement Location Certificate, including ridge elevations and prepared by a licensed surveyor, is to be submitted to the DRB.
- Within 3 working days of the observation, the DRB issues either an approval or a Notice to Comply. In the event a Notice to Comply is issued, the Contractor is to rectify the discrepancies found and schedule an additional observation.

3.4 FINAL OBSERVATIONS

Final construction approval by the DRB takes place in two steps as described below:

3.4.1 FINAL CONSTRUCTION OBSERVATION

Owners and/or their Contractor are to schedule the Final Construction Observation prior to applying for Certificate of Occupancy and after all Improvements, with the exception of landscaping, have been completed.

- To schedule this meeting, the Contractor is to submit to the DRB the Final Observation Request Form 7 working days prior to the requested meeting date.
- During this observation, the DRB will verify that final construction has been completed in accordance with approved plans.
- If approved, the DRB issues a Conditional Notice of Completion within 7 working days. If not approved, the DRB issues a Notice to Comply within 3 working days. In the event a Notice to Comply is issued, the Contractor is to rectify the discrepancies found and schedule an additional observation.

3.4.2 FINAL LANDSCAPE OBSERVATION

Owners and/or their Contractor are to schedule the Final Landscape Observation once all landscape installation has been completed and within 12 months of occupancy.

- To schedule this meeting, the Contractor is to submit to the DRB the Final Observation Request Form 7 working days prior to the requested meeting date.
- During this observation, the DRB will verify that final landscape installation has been completed in accordance with approved plans.
- If approved, the DRB issues a Notice of Completion within 7 working days. If not approved, the DRB issues a Notice to Comply within 3 working days. In the event a Notice to Comply is issued, the Contractor is to rectify the discrepancies found and schedule an additional observation.

3.5 COMPLIANCE DEPOSIT

A Compliance Deposit is to be delivered to the DRB at the Pre-Construction Conference as security for the project's full and faithful performance in accordance with DRB-approved final plans.

The Compliance Deposit amounts to \$30,000 for single family projects and \$50,000 for multi-family projects.

The DRB may use, apply or retain any part of a Compliance Deposit to the extent required to reimburse the DRB for any cost it may incur on behalf of the project's Construction Activity. The DRB is to be reimbursed for any fees incurred to restore the Compliance Deposit to its original amount. In the event that the Compliance Deposit is depleted to an amount equal to less than 70 percent of the original amount, Construction Activity will be halted within two weeks of the depletion. Construction Activity may not then resume until the Compliance Deposit has been restored to the original amount.

The DRB shall return the Compliance Deposit to the depositor within 30 days of issuance of the Notice of Completion.

3.6 OSHA COMPLIANCE

All applicable Occupational Safety and Health Act (OSHA) regulations and guidelines are to be observed at all times.

3.7 ACCESS TO THE CONSTRUCTION AREA

Access during construction of a building or other Improvement is to be approved by the DRB in accordance with the following requirements:

- Prior to the start of Construction Activity, each Contractor is to meet with security staff and prepare a Contractor's vehicle pass list along with supporting information describing and identifying all Construction Vehicles. The DRB or the security staff may require proof of acceptable insurance as a condition of entry.
- Only one construction access route will be permitted onto any one Construction Site, unless otherwise approved by the DRB. Construction access is to coincide with proposed driveway locations.
- Access for heavy equipment and tower cranes is to first be approved by the DRB.
- All Construction Vehicles are to be identified with the Contractor's name and job site.
- Material and equipment deliveries are to be consolidated to the extent feasible.

3.8 CONSTRUCTION TRANSPORTATION PLAN AND PARKING AREAS

All vehicle and parking areas are to be managed in accordance with the following requirements:

- Contractors are to create and manage a Transportation Plan that provides trip and vehicle reduction to the site through carpooling or other means.
- Construction crews are not to park on, or otherwise use, the Natural Area, streets or neighboring properties. All vehicles are to be parked in approved parking areas, as shown on the approved Construction Area Plan.
- During busy construction periods involving multiple trades when all Construction Vehicles cannot be accommodated on the site, the DRB may grant permission for overflow vehicles to temporarily park in designated areas along road shoulders.
- Vehicles parked on the road may not impede access to normal traffic and emergency vehicles, including fire trucks. Where parking on the shoulder occurs, all damage to the shoulder and landscape is to be repaired by the Contractor continually and not left for the end of construction. Vehicles may not be parked on Community Areas or Neighboring Properties. Changing oil or other vehicle maintenance is prohibited.
- Driving or parking within the drip line (canopy) of trees is not permitted.
- Overnight parking of Construction Vehicles is not permitted.
- Any costs incurred by the DRB or Master Association for vehicle towing will be deducted from the Compliance Deposit.

3.9 DELIVERY AND STORAGE OF MATERIALS & EQUIPMENT

Each Contractor is responsible for ensuring his/her subcontractors and suppliers obey all posted speed limits and traffic regulations. Fines will be imposed by local police and/or the DRB against the Contractor, Owner and/or Compliance Deposit for repeated violations. The following, additional Guidelines apply to all material delivery and storage:

- All building materials, equipment and machinery are to be delivered to and remain within the designated Construction Area. This requirement includes all building materials, earth-moving equipment, trailers, generators, mixers, cranes and any other equipment or machinery that will remain on the Construction Site overnight.
- Delivery vehicles may not drive across neighboring properties to access a construction site.
- Delivery route maps and site supervisor contact information sheets are to be provided to all delivery personnel.

3.10 SITE VISITATIONS

Due to the inherent danger associated with Construction Activities, visitors to Construction Sites are limited to those persons (such as construction workers, tradesmen, Municipal Authority agents, security staff, DRB staff, sales personnel and the Owner) with official business relating to the construction. Construction personnel are not to invite or bring family members or friends, especially children, to the job site.

3.11 HOURS OF CONSTRUCTION

Daily working hours are limited to Monday through Friday 7:00am – 7:00pm and Saturday 8:00am – 6:00pm, unless otherwise restricted by Park City ordinances. Noisy activity is prohibited on Sunday of each week. Construction hours may be revised at the discretion of the DRB or Park City.

3.12 FENCING REQUIREMENTS

All Construction Activities are to be confined to the Improvement Envelope per the following Guidelines:

- The approved area of disturbance may be fenced with a minimum six-foot tall construction fence with “green screen” throughout the duration of construction, subject to DRB approval.
- Construction fencing is to extend the length of the full street frontage to prevent parking in the Natural Area.
- Utility trenches that do not follow the driveway alignment are to be fenced on each side. Fences are to be a maximum of 8 feet wide.

3.13 FIRE AND SAFETY PRECAUTIONS

The following fire and safety precautions are to be adhered to at all Construction Sites:

- On-site fires are not allowed.
- On-site storage of flammable material is to be in accordance with OSHA requirements.
- The disposal of flammable materials including paint, stain or rags associated with cleanup of flammable waste is not permitted on-site.
- All fires are to be reported even if the fire is thought to be contained and/or extinguished.
- One or more persons are to be appointed as the individual(s) responsible for reporting emergencies and/or phoning 911.
- Access for emergency vehicles is to be maintained at all times.

- Access to fire hydrants, emergency water tanks and emergency turnouts are not to be blocked at any time.
- Smoking materials are to be discarded in approved containers.
- A minimum of one shovel and two 20-pound ABC-Rated Dry Chemical Fire Extinguishers are to be mounted in plain view.
- All equipment, including small tools, is to utilize a working spark arrestor.

3.14 CONSTRUCTION TRAILERS AND/OR TEMPORARY STRUCTURES

Upon approval of the Construction Area Plan and receipt of the building permit, a construction trailer or portable field office may be located on the building site within the designated Construction Area, subject to the following Guidelines:

- The type, size, color and condition of construction trailers are to be approved by the DRB during the Pre-Construction Conference.
- Construction trailers are to be colored to recede into the landscape and sited to minimize impacts to the site.
- The field office may not be placed on site earlier than two weeks prior to the actual start of continuous construction activity and not prior to the Pre-Construction Conference.
- Provisions for temporary power and telephone line are to be installed simultaneously.
- The construction trailer is to be removed prior to application for the Certificate of Occupancy.

3.15 SANITARY FACILITIES

Owner and their Contractor are responsible for providing adequate sanitary facilities for construction workers. Portable toilets are to be located in a discreet location, as approved on the Construction Area Plan. Sanitary facilities are not to be located within 50 feet of drainages and/or other sensitive resources.

3.16 DEBRIS AND WASTE REMOVAL

The following debris and waste removal procedures are to be adhered to at all Construction Sites:

- Trash and debris is to be cleaned up at the end of each day. Trash and debris are to be removed from each Construction Site at least once a week and transported to an authorized disposal site.
- Trash receptacles are to be located within the Construction Area, alongside the access drive, and out of view from the street and neighboring properties.
- Dumping, burying and/or burning trash is not permitted anywhere within Empire Pass.
- Heavy and large debris, such as broken stone and wood scraps, are to be removed from the site immediately upon completion of each work trade.
- Concrete washout, from both trucks and mixers, is to be contained within the Improvement Envelope and concealed by structure or covered with backfill. Concrete washout in road rights-of-way, setbacks or on Neighboring Properties is strictly prohibited.
- During the construction period, each construction site shall be kept neat and is to be properly policed to prevent it from becoming a public eyesore, nuisance, or detriment to neighboring properties. Owners are responsible for any clean-up costs incurred by the DRB or the Master Association in enforcing these requirements.
- Dirt, mud and/or other debris is to be promptly removed from public or private roads, open spaces, driveways and/or other portions of Empire Pass.

3.17 HAZARDOUS WASTE

In order to monitor hazardous material use and/or respond quickly to spills, the Contractor is to comply with the following criteria:

- The Contractor is to provide a contact person and telephone number for a company experienced in emergency response for vacuuming and containing spills for oil or other petroleum products.
- In the event of a spill, the Contractor is to immediately attempt to stop the flow of contaminants.
- Absorbent sheets are to be used for spill prevention and clean up. Several boxes are to be located at fuel trucks, storage areas and in maintenance vehicles. Inventories are to be maintained as necessary.
- The responsible on-site Contractor is to commit all necessary manpower, equipment and materials to the containment and rapid clean-up of spills.
- After any reportable spill (one or more gallons) is contained, the Contractor is to notify the appropriate local, state and federal agencies as well as the DRB.
- Equipment is to be fueled in designated staging areas only. Equipment that cannot be readily moved to designated staging areas is to be fueled a minimum of 100 feet from known drainage courses.
- Disposal of paint residue on-site or anywhere within Empire Pass is not permitted.
- Prior to storing a hazardous material, the Contractor is to ensure that:
 - The material is stored in an approved container
 - The container is tightly sealed
 - The container has the proper warning label
 - The container is inspected for leaks
- All contaminated soil is to be stored in a lined and bermed storage area that is protected from wind, erosion and rainfall.

- Inspect equipment and vehicles for damaged hoses, leaks and hazards prior to the start and end of each shift. Do not run equipment that is leaking hazardous products.
- Intentional or unreported spillage or dumping of fuels, hydraulics, solvents and other hazardous materials will be cause for eviction.

3.18 EXCAVATION, GRADING AND EROSION CONTROL

During construction, erosion is to be minimized on exposed cut and/or fill slopes through proper soil stabilization, water control and re-vegetation. To insure proper control or erosion and sedimentation, the procedures outlined below are to be followed. All measures are to comply with Summit County, Park City, state and federal ordinances, regulations and permits.

- Temporary run-off channels are to be built to drain construction zones. In areas draining two acres or less, channels are to have silt screens installed at appropriate locations. Silt screens are to be stretched across and anchored to the bottom of the channels with hay bales placed on the upstream side of the fabric. Where watershed above the site exceeds two acres, temporary earthen berms or ditches for channeling are to be used in conjunction with silt screens.
- All storm drain inlets are to be protected by a filter berm until the area is stabilized with vegetation or the base course of pavement is installed.
- Weather permitting, all building site areas and embankments constructed as part of cut and fill operations are to be seeded and mulched within one week of final grading completion (preferably in the autumn).
- Silt fencing is to be placed around the down-slope perimeter of graded areas, while still providing adequate space for construction activities. Soil may not be placed against the fence. Silt is to be cleared out regularly.
- Outer slopes are to be completed first and stabilized immediately.

- Modification and/or repair of fencing is to be performed as soon as need is evident. Inspect erosion control measures regularly, especially during storm cycles. Perform pre- and post-storm inspections.
- In some areas, multiple silt fences may be required.
- Vegetation disturbances are to be limited to within the designated Construction Area and within 5 feet of driveways.
- Topsoil is to be properly stockpiled, covered to minimize blowing dust within the Construction Area and reused as part of the site.
- Slope roughening/terracing may be desirable to stabilize re-vegetation on exposed cut bedrock slopes.
- Disturbed areas are to be watered to prevent dust from leaving the Construction Area.

3.19 BLASTING

The DRB is to be notified a minimum of two weeks in advance of any proposed site blasting. All required permits are to first be obtained from the appropriate Municipal Authority. Additional requirements are listed below:

- Blasting may only be done by licensed demolition personnel, with insurance coverage as mandated by county and state statutes.
- The DRB may require documentation of anticipated seismic effects, with confirmation that such effects will not be injurious to other persons or properties, public or private, and that all appropriate protection measures will be taken.
- The DRB may require additional insurance to cover potential damages from blasting to adjoining Improvements and neighboring properties.
- All excess material resulting from blasting, as well as any other excess excavation materials, is to be promptly removed from Empire Pass.

3.20 TREE AND HABITAT PROTECTION

The following Guidelines apply to the protection of all trees and other vegetation during construction operations:

- Trees are not to be removed without prior approval from the DRB.
- Before construction starts, exclusionary fencing is to be installed around the perimeter of the drip line of all trees not approved for removal. Rice straw bales are required for all trees within 4 feet of the driveway or where heavy equipment is being operated.
- The dripline is defined as the point where the distance from the edge of the tree canopy to the trunk is the greatest.
- Fencing material is to be highly visible and sturdy.
- Construction equipment or activity is not permitted within the fenced area (exclusionary zone) without written authorization from the DRB.
- Adequate drainage is to be provided to prevent ponding of water around the base of trees.
- Vehicle and equipment parking and materials storage is not allowed within the dripline of trees.
- Soil compaction is to be avoided around all trees.
- Mesh netting is to be used to protect trees from dust and paint drift.

3.21 AIR QUALITY CONTROL

Air quality control procedures are to be in accordance with the following requirements:

- Construction equipment exhaust emissions are not to exceed local code requirements for air pollution limitations.
- Open burning of removed vegetation is not permitted.

3.22 DAMAGE, REPAIR AND RESTORATION

Damage and scarring to other property, including streets, neighboring properties, existing buildings, roads, driveways and/or other Improvements will not be permitted. If any such damage occurs, it is to be repaired and/or restored promptly at the expense of the person causing the damage or the Owner of the Lot.

- Upon completion of construction, each Owner and Contractor is to clean his Construction Site and any neighboring sites that have been impacted and repair all property which has been damaged.
- The Owner and Contractor are financially responsible for site restoration/reevegetation and refuse removal necessitated on any and all adjacent properties as a result of trespass or negligence by their employees or sub-contracted agents.
- Any property repair costs as mentioned above, incurred by the DRB, Declarant or Master Association, will be taken out of the Compliance Deposit or billed to the Owner.

3.23 CONSTRUCTION INSURANCE REQUIREMENTS

All Contractors and sub-contractors are to post evidence of insurance with the Owner, prior to entering the construction premises. Confirmation shall be evidenced in the form of a valid Certificate of Insurance naming the Owner, Empire Pass and the Empire Pass Community Association, Inc. as additionally insured. The required insurance must provide coverage not less than the applicable limits of coverage relating to comprehensive general liability, automobile liability and workmen's compensation.

- The minimum limit for general and automobile liability is to be \$1,000,000 each.
- General liability coverage shall contain provisions for contractual liability and broad form property damage. The certificate shall provide for 30-day notice to the certificate holders in the event of cancellation or material change in the limits of coverage.

3.24 RIGHT TO FINE

The DRB reserves the right to issue fines to the Owner and/or Contractor, or to apply the fine to the posted Compliance Deposit, for the violation of any of the procedures set forth in these Guidelines. All fines imposed will be responsive to the nature and consequences of the violation.

3.25 CONSTRUCTION SIGNS

One temporary construction sign per Lot is permitted during construction, subject to the following Guidelines (subject to change by the Master Association at any time):

- The sign is not to exceed 6 square feet.
- The design and information indicated on construction signs are to conform with the master construction sign program implemented by the DRB and/or developer.
- Construction signs are to be free-standing, located within the property boundaries and visible from the adjacent roadway per local emergency response requirements.
- Construction signs are to be submitted to the DRB for approval at the Pre-Construction Conference and are to be removed prior to the issuance of a Temporary or Final Certificate of Occupancy.
- Temporary construction signs will be addressed on a case by case basis for all multi-family construction sites.
- Construction signs for subcontractors will not be permitted.
- Signs are to include address information per the requirements of local emergency response agencies.
- A water-proofed copy of the Contractor Emergency Number Contact Sheet is to be posted on the back side of the construction sign, out of view from the road.

3.26 FIREARMS

The possession or discharge of any type of firearm by construction personnel anywhere within Empire Pass is prohibited.

3.27 ALCOHOL AND CONTROLLED SUBSTANCES

The consumption of alcohol or use of any controlled substance by construction personnel anywhere within Empire Pass is prohibited.

3.28 NO PETS

No pets may be brought into Empire Pass.

3.29 NOISE CONTROL

The Contractor is to make every effort to keep noise to a minimum. Radios and other audio equipment may not be audible beyond the confines of the Construction Site. Violations of this provision will precipitate a total prohibition of any radios and/or other audio equipment.

3.30 SPEED LIMIT

All vehicles are to adhere to posted speed limits. Fines will be issued for those exceeding the speed limit as posted or as required by road and weather conditions.

Appendix A

Glossary of Defined Terms

ACCENT FEATURE

Accent Features are architectural elements that add interest and relief to building elevations to create the sense that Condominium Lodges consist of a collection of building forms rather than one large unarticulated rectangular form.

ACCESSORY BUILDINGS

Any building detached from and subordinate to the main building, including Guest Houses, garages, pavilions, gardening sheds, and/or art studios.

APPLICANT

An Owner and/or Owner's Consultant that is applying for approval on the new construction, renovation, alteration, addition and/or any other Improvement to any building and/or Lot.

ARCHITECT

A person licensed to practice architecture in the State of Utah.

BUILDER

A person or entity engaged by an Owner for the purpose of constructing any Improvement within Empire Pass. The Builder and Owner may be the same person or entity.

BUILDING AND IMPERVIOUS SURFACE COVERAGE

The total area of a Lot covered by buildings or any impervious surface.

BUILDING HEIGHT

The vertical distance under any roof or roof element to Existing Grade. (See Park City Land Management Code, 15-15-1.107.)

CC&Rs

The Master Declaration of Covenants, Conditions and Restrictions of Empire Pass.

CLASS B MEMBERSHIP

A class of voting membership of the Master Association as described in section 6.4.2 of the CC&Rs.

CLUSTER HOME

A detached single-family, build-for-sale residential unit. All Cluster Homes are to be designed and constructed in accordance with Books II and IV of the Design Guidelines.

COMPLIANCE DEPOSIT

A deposit paid by the Owner or Contractor to the DRB prior to commencing any Construction Activity.

CONDOMINIUM LODGE

A large multi-family residential unit with individual condominium units generally accessed from interior circulation corridors. All Condominium Lodge buildings are to be designed and constructed in accordance with Books III and IV of the Design Guidelines.

CONSTRUCTION ACTIVITY

Any site disturbance, construction, addition or alteration of any building, landscaping or any other Improvement on any Construction Site.

CONSTRUCTION AREA

The area in which all Construction Activity, including Construction Vehicle parking, is confined on a particular Lot.

CONSTRUCTION SITE

A site upon which Construction Activity takes place.

CONSTRUCTION VEHICLES

Any car truck, tractor, trailer or other vehicle used to perform any part of a Construction Activity or to transport equipment, supplies or workers to a Construction Site.

CONSULTANT

A person retained by an Owner to provide professional advice or services.

CONTRACTOR

A person or entity engaged by an Owner for the purpose of constructing any Improvement within Empire Pass.

CUSTOM HOME

A single-family residential house on a designated Custom Home Lot. All Custom Homes are to be designed and constructed in accordance with Books I and IV of the Design Guidelines.

DECLARANT

See definition contained in the CC&Rs.

DESIGN GUIDELINES (GUIDELINES)

See definition contained in the CC&Rs.

DESIGN REVIEW BOARD (DRB)

See definition contained in the CC&Rs.

EXCAVATION

The digging and removal of earth from its natural position, or the cavity resulting from such removal.

FILL

The amount of material used to increase an existing grade.

GROSS FLOOR AREA

Per the Park City Land Management Code: "The Area of a Building, including all enclosed Areas designed for human occupation. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Floor Area. Garages, up to a maximum Area of 600 square feet... are not considered Floor Area. Basement Areas below Final Grade are not considered Floor Area."

GUESTHOUSE

An Accessory Building intended for an Owner's guests, but not considered a separate dwelling unit or Residence.

IMPROVEMENT

See definition contained in the CC&Rs.

IMPROVEMENT ENVELOPE

That portion of a Custom Home Lot, wherein all Improvements may take place (as established

by front, rear and side setbacks), including all buildings, terraces, pools, autocourts and/or garages, with the exception of some native landscape planting, utilities, walls and driveways.

LANDSCAPE ARCHITECT

A person licensed to practice landscape architecture in the State of Utah.

LOT DIAGRAM

The individual site plan for each Custom Home Lot that describes the unique attributes of the particular site and indicates important design parameters such as the Improvement Envelope, Natural Area, easements of record, recommended driveway access, ski in/ski out trails, maximum Gross Floor Area, maximum Building Coverage and maximum Building Height.

LOT

Any Parcel or Lot created by a subdivision or plat within Empire Pass.

MASSING

The overall size, volume, spread, expression and articulation of building forms, including the main house, accessory buildings, covered terraces and other roofed areas, as they relate to the topography and landscape of each particular site. A building's compliance with the recommended Gross Floor Area may not be sufficient to demonstrate a building has complied with Massing requirements as described in these Guidelines.

MASTER ASSOCIATION

See definition contained in the CC&Rs.

MOUNTAIN VILLAGE (VILLAGE)

The development pattern at Empire Pass by which a small, interconnected community of residential housing, private clubs, trails, roads, ski runs and other recreational amenities is created using traditional principles of mountain planning. All neighborhoods within Empire Pass are combined to create the Mountain Village.

MULTIPLE FAMILY RESIDENTIAL PRE-WIRE GUIDELINES

The wiring standards, as adopted by Empire Pass, that establish the minimum cabling requirements for all condominiums and townhouses.

MUNICIPAL AUTHORITY

The applicable governmental entity or municipality which has jurisdiction over some part of Empire Pass including, the Park City Community Development Department and Planning Commission.

NATURAL AREA

An area that is altered moderately so that it blends with all adjoining naturally landscaped areas and creates natural screens to obscure and soften built Improvements from neighboring areas. All plant materials introduced in this area are to be native species as indicated in the Approved Plant List, see Appendix B.

NEIGHBORHOOD GATHERING AREA

A gathering place located in Townhouse, Cluster Home and Condominium Lodge neighborhoods and used as a central meeting place and/or transportation node for the neighborhood.

NOTICE OF COMPLETION

Written notice given by the DRB to the Owner upon Final Landscape Observation approval.

NOTICE TO COMPLY

Written notice issued to an Owner and/or Contractor of any changes and/or alterations not in compliance with DRB-approved plans or the Design Guidelines, which are to be corrected as directed by the DRB.

OWNER

See definition contained in the CC&Rs.

PARCEL

See definition contained in the CC&Rs.

PRELIMINARY PLAN

The conceptual master plan for Pod A (and subsequent phases) within Empire Pass as noted on the Preliminary Plan of April 18, 2003, or subsequent revisions. The Preliminary Plan establishes recommended building locations, sizes and other design criteria for each Lot.

RESIDENCE

The building or buildings, including any garage, or other Accessory Buildings, used for residential purposes constructed on a Lot, and any Improvements constructed in connection therewith.

SALEABLE SQUARE FEET

The square footage of building floor space, measured from the interior line of the exterior walls of each separate residential unit, for which Park City has issued a Building Permit and which can be sold to individual purchasers for residential use (exclusive of common areas, parking, etc. and of any square footage constructed for residential use as affordable/employee housing as may be required by Park City), in such configurations (including without limitation the mix and height of buildings and the design, density and layout of buildings and units) and locations as Buyer, in accordance with the Entitlements Agreement, determines. All bathrooms, halls, closets, and storage and utility rooms within a separate residential unit shall be included in the calculation of Saleable Square Feet, but hallways exterior to such unit and outdoor facilities shall not be included.

SINGLE FAMILY RESIDENTIAL PRE-WIRE GUIDELINES

The wiring standards, as adopted by Empire Pass, that establish the minimum cabling requirements for all custom homes and PUDs.

STORY

A living level contained between the surface of any floor and the surface of the floor above it, or if there is not a floor above, then the space between the floor and the ceiling next above it. Any portion of a Story exceeding 18 feet in height shall be considered an additional Story for each 18 feet or fraction thereof. Stories contained within the roof by utilizing dormers or similar roof structures are considered to be one-half Story.

TOWNHOUSE

A multi-unit, build-for-sale residential building comprised of attached single-family units that are each accessed independently through exterior entrances. All Townhouse buildings are to be designed and constructed in accordance with Books II and IV of the Design Guidelines.

Appendix B

Approved Plant List

TREES

Botanical Name	Common Name	Native or Cultivar of Native Use	Low Water
<i>Abies concolor</i>	White Fir	X	
<i>Abies lasiocarpa</i>	Subalpine Fir	X	
<i>Acer ginnala</i>	Amur Maple		
<i>Acer glabrum</i>	Rocky Mountain Maple	X	
<i>Acer grandidentatum</i>	Bigtooth Maple	X	
<i>Alnus tenuifolia</i>	Thinleaf Alder	X	
<i>Cercocarpus spp</i>	Mountain Mahogany	X	X
<i>Picea spp.</i>	Spruce	X	
<i>Pinus aristata</i>	Bristlecone Pine	X	X
<i>Pinus flexilis</i>	Limber Pine	X	
<i>Pinus nigra</i>	Austrian Black Pine		X
<i>Populus tremuloides</i>	Quaking Aspen	X	
<i>Prunus virginiana</i>	Chokecherry	X	
<i>Pseudotsuga menziesii</i>	Douglas Fir	X	X

APPROVED PLANT LIST

SHRUBS

<i>Amelanchier alnifolia</i>	Saskatoon Serviceberry	X	X
<i>Amelanchier utabensis</i>	Utah Serviceberry	X	X
<i>Artemisia spp.</i>	Sage	X	X
<i>Cercocarpus spp.</i>	Mountain Mahogany	X	X
<i>Chrysothamnus spp.</i>	Rabbitbrush	X	X
<i>Cornus stolonifera</i>	Dogwood, Redtwig	X	
<i>Cotoneaster spp.</i>	Cotoneaster		X
<i>Cowania mexicana</i>	Cliff Rose	X	X
<i>Jamesia americana</i>	Jamesia	X	
<i>Lonicera involucrata</i>	Honeysuckle, Twinberry	X	X
<i>Mahonia spp.</i>	Oregon Grape	X	
<i>Pachistima myrsinites</i>	Oregon Boxwood	X	X
<i>Physocarpus malvaceus</i>	Mallow Ninebark	X	
<i>Physocarpus o. 'Nanus'</i>	Ninebark Dwarf	X	X
<i>Potentilla spp.</i>	Cinquefoil	X	X
<i>Prunus besseyi</i>	Western Sand Cherry	X	X
<i>Prunus besseyi 'Pawnee Buttes'</i>	Western Sand Cherry, Creeping	X	X

APPROVED PLANT LIST

<i>Purshia tridentata</i>	Bitterbrush	X	X
<i>Rhus spp.</i>	Sumac	X	X
<i>Ribes spp.</i>	Current	X	X
<i>Rosa rugosa spp.</i>	Shrub Rose		X
<i>Rosa woodsii</i>	Woods Rose	X	X
<i>Salix purpurea nana</i>	Dwarf Artic Willow	X	X
<i>Sambucus nigra ssp. cerulea</i>	Blue Elderberry	X	
<i>Sambucus racemosa</i>	Red Elderberry	X	
<i>Shepherdia argentea</i>	Buffaloberry	X	X
<i>Spiraea spp.</i>	Spirea		
<i>Symphoricarpos albus</i>	Common Snowberry	X	X
<i>Symphoricarpos oreophilus</i>	Mountain Snowberry	X	X
<i>Syringa spp</i>	Lilac		X
<i>Viburnum spp.</i>	Viburnum	X	

GROUNDCOVERS & PERENNIALS

<i>Achillea spp.</i>	Yarrow	X	X
<i>Arctostaphylos uva-ursi</i>	Kinnikinnick	X	X

APPROVED PLANT LIST

<i>Aquilegia spp.</i>	Columbine	X	
<i>Centaurea montana</i>	Perennial Bachelor Buttons	X	X
<i>Centranthus ruber</i>	Red Valerian, Jupiter's Beard	X	
<i>Cerastium tomentosum</i>	Snow-in-Summer	X	X
<i>Chamerion angustifolium</i>	Fireweed	X	
<i>Coreopsis spp.</i>	Coreopsis	X	X
<i>Delphinium ssp.</i>	Larkspur	X	
<i>Echinacea purpurea</i>	Purple Coneflower	X	
<i>Eriogonum umbellatum</i>	Sulphur(-Flower) Buckwheat	X	X
<i>Eucephalus engelmannii</i>	Engelmann's Aster	X	X
<i>Eschscholzia californica</i>	California Poppy		X
<i>Frasera speciosa</i>	Elkweed	X	
<i>Gaillardia spp.</i>	Blanket Flower	X	X
<i>Galium odoratum</i>	Sweet Woodruff	X	
<i>Geranium spp.</i>	Geranium	X	
<i>Helianthus pumilus</i>	Little Sunflower	X	X
<i>Hemerocallis spp.</i>	Daylily		X

APPROVED PLANT LIST

<i>Heracleum spp.</i>	Cowparsnip	X	
<i>Heuchera spp.</i>	Coral Bells		
<i>Ipomopsis aggregata</i>	Scarlet Gilia	X	X
<i>Iris spp.</i>	Iris	X	X
<i>Leucanthemum x.</i>	Daisy, Shasta	X	
<i>Liatris spp.</i>	Gayfeather	X	X
<i>Linum spp.</i>	Flax	X	X
<i>Lupinus spp.</i>	Lupine	X	
<i>Mabonia repens</i>	Creeping Oregon Grape	X	X
<i>Mertensia arizonica</i>	Aspen Bluebell	X	
<i>Monardella odoratissima</i>	Mountain Monardella	X	X
<i>Monarda spp.</i>	Bee Balm	X	X
<i>Packera multiobata</i>	Lobeleaf Groundsel	X	
<i>Papaver spp.</i>	Poppy		
<i>Parthenocissus quinquefolia</i>	Virginia Creeper	X	X
<i>Penstemon spp.</i>	Penstemon	X	X
<i>Perovskia atriplicifolia</i>	Russian Sage, Azure Sage		X
<i>Polemonium L.</i>	Jacob's Ladder	X	
<i>Potentilla spp.</i>	Potentilla	X	X
<i>Ratibida spp.</i>	Coneflower	X	X

APPROVED PLANT LIST

<i>Rudbeckia occidentalis</i>	Western Coneflower	X	
<i>Rudbeckia fulgida</i> 'Goldstrum'	Black-Eyed Susan		X
<i>Salvia spp.</i>	Salvia		
<i>Sedum spp.</i>	Sedum	X	X
<i>Tanacetum x Coccineum</i>	Painted Daisy	X	
<i>Thalictrum fendleri</i>	Fendler's meadow-rue	X	
<i>Vinca minor</i>	Dwarf Periwinkle		
<i>Veronica spp.</i>	Veronica		X

GRASSES

<i>Achnatherum occidentale</i>	Western Needle Grass	X	X
<i>Agropyron spp.</i>	Wheatgrass	X	X
<i>Bromus inermis</i>	Smooth Brome		X
<i>Dactylis glomerata</i>	Orchard Grass		
<i>Leucopoa kingii</i>	Spike Fescue	X	
<i>Lolium perenne</i>	Perennial Ryegrass	X	
<i>Melica bulbosa</i>	Onion Grass	X	
<i>Pbleum pratense</i>	Timothy		X
<i>Poa fendleriana</i>	Mutton Grass	X	X

Appendix C

Prohibited Plant List

<i>Botanical Name</i>	Common Name
<i>Prunus cerasifera</i>	Purple-Leaf Plum/Cherry
<i>Betula pendula</i>	European White Birch
<i>Acer rubrum</i>	Red Maple
<i>Acer saccharinum</i>	Silver Maple
<i>Koelreuteria paniculata</i>	Golden Rain Tree
<i>Ulmus pumila</i>	Siberian Elm
<i>Ailanthus altissima</i>	Tree-of-Heaven
<i>Lysimachia angusta</i>	Loosestrife
<i>Betula nigra</i>	River Birch
<i>Morus spp.</i>	Mulberry
<i>Populus spp.</i>	Cottonwood

