

**DEERLAKE VILLAGE COMMUNITY ASSOCIATION  
RULES & REGULATIONS - Part 9**

**PROCEDURES FOR NEW CONSTRUCTION**

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*Approved by the DVCA Board of Directors December 9, 2010.*

## PROCEDURES FOR NEW CONSTRUCTION

### I. DOCUMENTATION REQUIREMENTS FOR NEW CONSTRUCTION

- A. Property owners and/or contractors (builders) are expected to meet with the ARC prior to making building plans so that they understand their responsibilities for new construction applications.
  - 1. All submissions for consideration by the Committee must be in writing, dated and signed, by the requesting owner.
  - 2. Each request must clearly identify the unit and lot number affected by the request, and must include appropriate documentation and/or information as specified herein.
  - 3. Approval for new construction is a two step process that includes a Preliminary Review and a Construction Review
  
- B. Documents required for a Preliminary Review:
  - 1. Preliminary drawings of house to scale
  - 2. Preliminary elevations showing house sited on your lot
  - 3. Preliminary site plan to include:
    - a. House
    - b. Driveway
  
- C. New Construction Review documents required:
  - 1. One (1) site survey containing the following:
    - a. Location of building (including roof overhang with gutters) and setback measurements, measured from the edge of the gutter.
    - b. Location of driveway and parking areas.
    - c. Location of easements, erosion control devices and exterior lights.
    - d. Expected direction for surface water flow from driveway and roof eaves.
    - e. Stamp of approval by the city
  - 2. One (1) set of plans for the proposed construction containing all information and data as specified in Appendix A.
  - 3. An initial erosion prevention and drainage plan (during construction)
  - 4. Two (2) applications forms (Appendix A), complete with the information and data indicated, signed and dated by the requesting Owner and the Contractor. (one form for ARC and one for owner)
  - 5. **A \$3,000.00 performance bond prior to start of construction.** This check must be from the property owners. This bond is used when violations are not resolved.
  
- D. Site preparation
  - 1. The following setbacks are minimums: (except where setbacks on plat are greater)
    - a. Front (from street) 35 feet
    - b. Side 12 feet
    - c. Back 25 feet
    - d. From top of stream bank 30 feet

2. The Surveyor or Contractor must:
  - a. Accurately locate, by means of stakes and string, the perimeter of the structure to be built, including roof overhang with gutters, decks, porches, garages, and carports so that the position of the structure can be readily determined at the time of the initial inspection.
  - b. The location of the driveway and parking area shall be similarly staked and strung.
  - c. Strings along property lines are required to verify setbacks.
  - d. All utility lines must be flagged by the appropriate utility company.
  
- E. Square foot requirements. The minimum square footage requirement of enclosed heated and air-conditioned dwelling areas for residential (mountain, lake and creek side) homes is 2,000 square feet.
  
- F. The location of the house should address the following issues:
  3. The driveway angle and slope.
  4. Difficult erosion problems.
  5. Consideration of the view or privacy of neighbors should be taken into account.
  6. The size and shape of the lot should be considered when designing a home.
  
- G. The height of the roofs of all new construction should not unreasonably obstruct the views of other property owners.
  
- H. Vinyl siding is not allowed on the mountain lots, creekside lots nor lakeside lots.

## II. ENVIRONMENTAL GUIDES

- A. **Construction Plans and Revisions.** The ARC must inspect the building site before a Deerlake permit can be issued. The report will cover the evaluation of the following plans:
  1. **Erosion and sedimentation plan:**
    - a. A sedimentation and erosion plan must be developed by the builder/owner and approved by the ARC. If a permanent sedimentation and erosion plan was not implemented during construction, then a permanent erosion and sedimentation plan must be submitted at the time the CO is issued and implemented in conjunction with permanent landscaping. The plan must show direction of water flow, the location and construction of erosion control devices. Refer to Appendices E and F for details. Mulch filled socks are to be used as the primary method of erosion control. Silt fence will no longer be approved as an erosion control method in Deerlake. Refer to the *N.C. Erosion and Sediment Control Planning and Design Manual* for other erosion control alternatives. Or get the free PDF version available at: <http://www.dlr.enr.state.nc.us/pages/manualsandvideos.html#eslinks>).
    - b. Any required temporary erosion control devices must be in place before work on the site begins and must be removed when permanent landscaping is in place. Temporary erosion control devices may be inspected by the ARC

periodically. All erosion control devices must be operational prior, during and after construction is completed and maintained by the owner until permanent landscaping is in place. All sediment collected behind temporary erosion barriers must be taken off-site.

- c. Unless the driveway cut is to be stabilized with a retaining wall, it must be graded at an angle no steeper than 2 feet of horizontal run to 1 foot of vertical rise (2:1 slope).
- d. Permanent erosion and sediment devices must be installed at the time the temporary devices are removed. Examples: Railroad ties, power seeding, rock, berms and ground cover.
- e. Permanent erosion prevention on driveway cuts will be determined on an individual basis by ARC, with owners and contractors.
- f. Driveways must be stabilized immediately with crushed stone to prevent erosion and tracking onto roads. Dirt tracked onto road must be cleaned off daily. Driveway cuts must also be stabilized.
- g. Ground cover, both temporary and permanent, shall be provided as early as possible.
- h. For additional details on erosion and sedimentation, refer to appendix E

2. **Surface Water Control.** The plot plan must show the direction of flow of surface water and comply with the following:

- a. All driveways sloping toward the road must also be sloped to one side to allow water flowing toward the road to be diverted to undisturbed soil.
  - b. Gutters and downspouts or their equivalent must be installed as soon as the outside of the house is painted.
  - c. For additional details on surface water control, refer to Appendix F.
3. The building site is to be kept in good appearance. Trash and scraps should be picked up daily. No onsite burning allowed.

## B. **Building Site Preparations**

- 1 **Lot clearing for building site preparation is not permitted until building permits have been issued by the City of Brevard and the Deerlake ARC.** Under extreme conditions of dense undergrowth, the Committee on written request from the property owner(s) may permit limited clearing of undergrowth to facilitate the survey of the property or the placement of strings to indicate location of the planned construction, including driveways and parking areas.
- 2 Removal of living trees or plant life from the construction site is to be limited to those trees or plants within the perimeter of the building foundation and not more than twelve (12) feet from the drip line of the house to the base of the tree or shrub. Boundaries of walks, driveways, and parking areas must be planned to minimize need for tree or plant removal. As fire safety prevention, it is recommended that underbrush within 4 feet of the ground be removed to a distance of 40 feet of the house.
- 3 Selective removal of the following will be considered:
  - a. Large trees (12 inch diameter and greater) within twenty (20) feet of the house for protection of the structure

- b. Large trees (12 inch diameter and greater) which are located uphill and within damaging fall distance of the house.
  - c. Trees with branches which overhang and could cause damage or discolor the house roof. Branch trimmings may be a suitable alternative.
4. Such trees that the owner wishes to remove beyond the twelve (12) feet limit, must be identified on the application (Appendix A) and marked with orange or yellow blaze tape for the ARC to determine if they may be removed.
  5. Trees in danger of damage during site preparation and construction are to be protected by close fitting sheath of lumber bound to the tree, covering the area of potential damage. The root system of trees located near proposed driveways and walks are to be protected so that the trees will survive. Special effort must be made to protect *Dogwood, Rhododendron, Mountain Laurel and other flowering trees and plants.*
  6. Care must be taken during site preparation and construction to avoid damage to adjoining property. **The owner/contractor will be held responsible for any damage to other people's property and will also be held responsible for damage resulting from *changing the natural drainage* from his/her property. Failure to abide by this rule may result in fines.**
  7. Any large tree being covered by more than six (6) inches of fill should be cut.
  8. Access drives and parking areas. Each lot upon which a residence is constructed shall be provided with a suitable access drive and with a parking area for not less than two (2) automobiles within the boundaries of the lot, in addition to the garage. In cases where topography or other conditions would create an economic hardship in meeting this provision, the ARC will consider granting a variance upon written application by the owner. All culverts must be buried or placed so that the top elevation is a minimum below the road elevation of the diameter of the pipe. For example a 12" pipe would be buried 12", a 15" pipe, 15", etc.

C. **Common/Green Areas**

Common/green areas lie outside private property lines and are used for utilities, and recreational and social amenities. Title to these areas is held by the Association who control the use to which such areas are put. *Should any portion of the common/green area be disturbed by any owner without the permission of the Board, that owner may be required to restore the damaged property to its original condition at that owner's expense. Other penalties may apply.*

D. **Radio, TV, and Internet Antennae**

Regulations for these have been modified by FCC ruling. Current regulations permit the installation of a small dish for TV or internet. In compliance with this ruling, the installation of satellite or internet dish may be permitted on the home owner's property provided that:

1. The ARC has given approval prior to installation of the equipment. The Committee must make a prompt review and response to the request.
2. It measures no larger than necessary to provide acceptable reception and in no case is larger than 39.7 inches in any dimension.
3. The dish should not be visible from the street if acceptable reception is thereby possible.

4. The location and installation does not present a safety hazard.
5. The satellite dish may not be painted any color except a neutral inconspicuous color that blends in with its surroundings.
6. NOTE: All other antennae and structures for receiving and transmitting are prohibited by our covenants.

#### **E. Exterior Lighting**

The guidelines governing the installation of exterior lights are:

- a. Height. The height of exterior free-standing fixtures greater than seven (7) feet in height as measured from the ground level to the top of the light fixture requires pre-approval.
- b. Operation. All lighting must be controlled by a time clock or have a manually operated switch so that the exterior lighting will not stay on all night.
- c. Type:
  - 1) Appropriate gas lights are permitted, but exterior lighting such as mercury vapor, sodium, quartz-type or any other type of high intensity lights now available, or which may become available in the future, are specifically prohibited. Only low intensity incandescent exterior or comparable approved energy saving lighting is permitted.
  - 2) Spotlights and floodlights may not be used in any manner which unreasonably annoys other owners. Spotlighting and floodlighting may not be directed toward any public road nor toward any lot other than that on which is it placed.
  - 3) Temporary exterior, decorative holiday lighting is permitted to be displayed during the holiday season.
- d. Wattage for incandescent lights:
  - 1) Lights aligning a driveway may only be situated between the residence and the lot line and must use bulbs of no more than seventy-five (75) watts per light.
  - 2) Yard lights lighting walkways may only be situated between the residence and the approved lot line and must use bulbs not to exceed forty (40) watts per light.
  - 3) Spot or floodlights may not exceed one hundred fifty (150) watts.

#### **F. Miscellaneous Items**

- 1 **Fences and Hedges.** In general, the installation of fences and hedges along property lines in Deerlake is prohibited except in the Meadows. The Committees may consider, on an individual basis, requests for installation of appropriately designed fences for landscaping. Structures for the containment of animals are not permitted except for the mountain lots.
- 2 **Signs.** No person shall erect or maintain advertising signage upon any lot or improvement, except for approved real estate for sale signs.
- 3 **Steps** may be constructed from landscape timbers, natural stone, concrete or commercially available stepping stones. In all cases the steps must be constructed and placed in a manner that precludes the possibility of soil erosion. All cuts into

- the ground must be covered or filled with crushed stone or other material so that the earth is not exposed or subject to washing away.
- 4 **Railings for steps** are to be constructed of wood and installed in a manner that is compatible with the natural surroundings; however, railings constructed of other materials may, in some cases, be approved.
  - 5 **Walkways** that give the appearance of natural paths or stone covered paths will typically be approved. Applicants should take care not to create a situation that may cause soil erosion.

### III. PERMANENT LANDSCAPING AND DRIVEWAY

#### A. Procedure for approval of landscaping for new construction

There is a three-step process for the approval of landscaping for new construction.

##### 1. Step 1: Preliminary Landscape Plan

First, the property owner will need to submit a **preliminary landscape plan** within one month after the dry-in of the house. This plan outlines the “bones” or essentials of the landscape. See Appendix D for an example. The preliminary landscape plan should contain the following:

- a. Contour map of the property
  - b. Site plan of the house
  - c. Outline of permanent driveway
  - d. Walkways, steps in landscape
  - e. Any hardscape structures such as retaining walls
  - f. Anchor plantings such as foundation shrubs, additional trees, etc
  - g. Potential erosion and/or drainage problems and solutions
2. Identify all anchor plantings to be utilized and their locations. Mark any additional trees within 20 feet of the house that need to be removed. Address any potential erosion and/or drainage problems (with drawings if possible) and solutions such as plantings, dry creek beds, rain gardens, etc.
  3. Submit the preliminary landscape plan to the ARC chairman. The plan will be reviewed by the Landscape Review Committee and either approved or returned with suggestions for revision. Once the preliminary landscape plan has been approved, the owner may proceed with implementing those items in the preliminary plan.

##### 4. Step 2: Detailed Landscape Plan

Second, the owner must submit a **detailed landscape plan**. Many times unexpected construction issues emerge that may alter the design or implementation of the preliminary landscape plan. The detailed landscape plan reflects these changes. If the preliminary landscape plan was the “bones” of the landscape, the detailed landscape plan adds the “flesh”. The detailed landscape plan must be submitted to the ARC chair no later than the date of the Certificate of Occupancy (C.O.). The detailed landscape plan should address:

- a. Additions, deletions or changes from the preliminary landscape plan
  - b. Any redirections of drainage away from storm drains and streams
  - c. Additions of planting beds, shrubs, trees or ground covers
5. Be sure to identify all plants and locations. Once the detailed landscape plan has been approved, the owner may proceed with implementing those items in the detailed plan. ***This plan must be implemented within one year of the issuance of the C.O.***

6. Step 3: Final Approval

Third, the owner should contact the ARC chair when the landscaping has been completed. The LRC committee will review the landscape for **final approval**. Should any issues block final approval, the LRC will address them in writing to the ARC chair who will notify the owner. The owner will have 30 days to resolve the issues and to contact the ARC chair for another review. ***New construction performance bonds cannot be returned unless final approval of the landscape is granted.***

B. Driveway

1. Within one year of receipt of the certificate of Occupancy from the City of Brevard, the driveway is to be paved with asphalt, concrete or brick or stone pavers.

#### IV. CONSTRUCTION OF NEW ROADS

- A. Any new street, road or vehicular right of way that traverses one Deerlake property to access another property in Deerlake must adhere to the standards set forth in this document and the following sections of the **North Carolina Department of Transportation Subdivision Roads Minimum Construction Standards** of January 2010. Section B. Structures(Bridges, Culverts, Dams and Retaining Walls), Culverts subsection except for subsection 2; C. Curb and Gutter and Sidewalk subsections 1 and 7; Section E Pavement Designs and Section K. Minimum Design Criteria subsection 1.
- B. This document is available as a PDF online. The pertinent sections are Pavement Designs and Minimum Design Criteria.
- C. The developer must submit the following plans and have approval by the ARC before any work begins:
  1. A sediment and erosion control plan. This plan must be fully implemented before ANY clearing or work begin.
  2. Engineering plans for the construction of the road.
  3. A landscape plan, to be implemented within 30 days of completion of the road. This plan is to include plantings to permanently stabilize the road margins and cut and fill slopes, which must not exceed 2:1.
  4. Failure to do any of the above will result in significant fines.
- D. See also:
  - a. DVCA Declaration of Covenants Article VI USE RESTRICTIONS Section 13. Erosion Control and Section 28. Access Way.
  - b. Any new Access Way **MUST COMPLY WITH APPROVING AN ACCESSWAY POLICY AND MUST HAVE DVCA APPROVAL BEFORE ANY WORK CAN START.**
- E. If the road(s) is (are) not accepted by the city, the developer shall have a legal agreement among the property owners which shall include annual dues to cover future repairs and maintenance of the road(s).

#### V. CONSTRUCTION PERMITS AND INSPECTIONS

- A. No fieldwork, including lot clearing, can proceed until all necessary

permits are secured and posted on the job site. Permits must remain posted during construction.

1. During construction, the following inspections will be made by the ARC to confirm:
  - a. Temporary erosion control devices are in place and working prior to and during site development.
  - b. Driveways are stabilized with stone as required.
  - c. Driveway cuts are stabilized with grass or other suitable cover.
  - d. The location and maintenance of port-a-john minimizes community disturbances.
  - e. The site is clean and orderly.
2. Final inspection will establish:
  - a. That driveway cuts are stabilized in a suitable manner.
  - b. That bare ground is seeded with cover.
  - c. That house and trim colors are the same as those approved originally.
  - d. That roof/driveway drains are installed and routed to undisturbed soil.
  - e. That temporary utility poles, rubbish, signs, and port-a-johns are removed.
  - f. Where earth has been raised around trees, the trees are protected by permanent wells.
  - g. A certificate of occupancy has been obtained.
  - h. That driveways are constructed of a solid surface; paving blocks, concrete, or blacktop. Loose gravel is not acceptable.

## **VI. VIOLATION PROCESS**

- A. The following guidelines are to be implemented by the ARC as to the process for contractor and/or property owner violations.
  1. All violations are to be discussed with the property owner and/or contractor. Both parties will agree to a solution and a timeframe for resolution of the violation.
  2. If the violation has not been corrected to the satisfaction of the ARC or has not been corrected within the agreed upon timeframe, the ARC will take the following actions: Should the violation(s) not be road damage or erosion control violations, the ARC will write a violation report, discuss the report with the property owner and/or contractor, prepare a letter to the property owner and/or contractor describing the violation and setting out the amount of time to make the correction(s). If the violation(s) is/are not corrected, the violation report will be turned over the Board of Directors, with all correspondence relating to this matter for final action as detailed above.
  3. A letter will be sent to the property owner by the Board of Directors describing the violation and the amount of time the property owner will have to make corrections and possible penalties that may be assessed for non-compliance.
  4. If the violation is not corrected within the timeframe assigned by the Board of Directors, the property owner will be assessed penalties which may include forfeit of all or part of the property owner's \$3,000 performance bond or a lien on the property at issue.

5. In the case of road damage or erosion control violations, if the violation(s) continue and are not corrected, a contractor will be selected by the ARC to correct the violation, and the costs are to be withdrawn from the \$3000.00 performance bond. If the performance bond is inadequate to cover the costs, a lien against the property will be established.
6. Owners have the right to appeal following the board's decision.

## **VII. DOCUMENTATION FILE**

- A. General.** A file folder by unit and lot number is maintained for each residence, building or structure at Deerlake for use during the Committee's review and approval processes, for reference during construction, and for use as a record for administrative uses and requirements. A copy of all documents, correspondence, and other matters affecting the property will be maintained in the file. These documents shall include but will not be limited to the following:
1. Plans of the building or structure.
  2. Specifications for the building or structure.
  3. Application form.
  4. Association permits.
  5. One (1) copy of Certificate of Occupancy.
  6. One (1) copy of ARC worksheet.

- A. Records Access.** The documents, records, and correspondence placed in the documentations files shall be available for viewing by the owner, the ARC, and the Board. Access to these records by others will be permitted only with the express written consent of the owner and the Committee.

**APPENDIX A**  
**Deerlake Village New Construction Application**  
(Completion required prior to construction)

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TELEPHONE NO.: \_\_\_\_\_ LOT NO: \_\_\_\_\_  
CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TELEPHONE NO.: \_\_\_\_\_  
DATE INITIATED: \_\_\_\_\_ ARC MEMBER: \_\_\_\_\_

Style of home:  
Exterior material:  
Heated square footage:  
Trim color:  
Exterior color:  
Roof color & material:  
(Actual samples of material and color must be submitted)

**Documents required and not returnable:**

1. Site plan with approval stamp of the City of Brevard
2. Front, rear and side elevations
3. Interior plan, including square footage

**Performance bond for contractor:**

A deposit of \$3000.00 shall be made payable to Deerlake Village Community Association Inc.,  
This check must be from the property owners.

**IT IS UNDERSTOOD THAT ANY CHANGES MADE AFTER THE APPROVAL DATE MUST BE RESUBMITTED AND APPROVED BY THE ARCHITECTURAL REVIEW COMMITTEE (ARC)** The property owner and contractor are responsible for complying with the DVCA Covenants issued (October 26, 2006) including but not limited to, amendments and declaration supplements added since October 26, 2006. In addition, the property owner and contractor must comply with the Deerlake Village Community Association Procedures for New Construction (approved, November 16, 2007). The ARC directives on erosion control, tree removal, and protection must be complied with before work commences and during construction.

\_\_\_\_\_  
Signature of owner (1) \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of owner (2) \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Contractor \_\_\_\_\_  
Date

**APPENDIX A**  
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**Construction to follow guidelines for new construction dated November 16, 2007, ARC Directives and regulations of the City of Brevard**

For stake and string layout follow the Procedures for New Construction dated November 16, 2007 (and any revisions approved since that date) and city regulations.

Approved for ARC by: \_\_\_\_\_ Date: \_\_\_\_\_

Trees that interface/obstruct should be marked, to cut after approval.

Approved for ARC by: \_\_\_\_\_ Date: \_\_\_\_\_

**OUTSTANDING CONDITIONS**

Driveway pavement completed on \_\_\_\_\_

Approved for ARC by: \_\_\_\_\_

Hardscape completed on: \_\_\_\_\_

Approved for LRC by: \_\_\_\_\_

Landscaping completed on: \_\_\_\_\_

Approved for ARC by: \_\_\_\_\_

Other: \_\_\_\_\_

Performance Bond Check # \_\_\_\_\_

For \$3000 received from Lot Owner \_\_\_\_\_

Received for the ARC by \_\_\_\_\_ Date \_\_\_\_\_

Performance Bond Refunded check #: \_\_\_\_\_ in the amount of: \$ \_\_\_\_\_

Received by: \_\_\_\_\_ Date \_\_\_\_\_

Residuals of Performance Bond \$ \_\_\_\_\_ received from DVCA

By Lot Owner \_\_\_\_\_ Date \_\_\_\_\_

*This Appendix A was approved by the DVCA Board of Directors on the 6<sup>th</sup> of March 2008.*

**APPENDIX B FOR RESTRICTIONS FOR LAKESIDE LOTS (NUMBERED 2-7)**

- 1 No fences or dog runs may be located on any lot at any time.
- 2 No stream shall be diverted or stream bed relocated on any lot nor shall any dam or other barrier be placed thereon which may interfere with the flow of surface water across the lot. **No structure shall be constructed or located within the wetland areas delineated for each lot and as shown on Exhibits 1A-1D to the Supplemental Declaration of Covenants for the annexation of the Lakeside and Creekside Lots into Deerlake Village.**
- 3 To the extent that is reasonably possible to do so, driveways shall be offset so that the point on a lot where the driveway enters the street will not be directly across the street from the point where the driveway on another lot also enters the street.
- 4 Each lot owner shall be responsible for repairing and maintaining any dock which is located on such lot owner's lot, **subject to the rules and regulations of the Deerlake Village Community Association, Inc.'s (hereinafter referred to as "the Association").**
- 5 No lot owner may place riprap on the shoreline of the lake. Each lot owner must abide by the trout stream buffer regulations promulgated by the agency of the State of North Carolina which is responsible for promulgating and enforcing such regulations.
- 6 No alterations shall be made to the shoreline of the lake without the express written approval of Carolina Mountain Land Conservancy and the Association.
- 7 No overhead lights shall be placed on any dock.
- 8 Only one boat may be moored to a dock and any boat which is not secured to a dock must be stored on the boat owner's lot **screened from view from Deerlake Drive.**
- 9 Each dock must be kept free of trash at all times.
- 10 No seats or benches may be placed on any dock other than such permanent seats and benches which are constructed on and form a part of such dock and have been approved by the Association's New Construction Committee.
- 11 No dock may be constructed or modified on any lot without the approval of either the Association's New Construction Committee or its Modifications Committee.
- 12 No lot located on the shoreline of the lake shall increase or decrease in size as a consequence of fluctuations in the water level of the lake as the water line shall not be construed to be the property line.
- 13 No home constructed on a **Lakeside lot (Lots 2-7)** shall exceed one and one-half (1 ½) stories in height.

**APPENDIX B**  
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14. Each lot owner's right to use the lake shall be subject to such rules and regulation regarding the use of the same as may be published by the Association and to the Association's right to
- (a) dredge the shoreline up to the original water line as shown on the recorded plat;
  - (b) remove deposits and maintain the lake bed up to the original water line of the lake;
  - (c) raise and lower the lake level for lake or, fore bay maintenance and other related purposes;
  - (d) control the fore bays; and
  - (e) stock the lake with fish.
15. **The above restrictions and the restrictions referred to in the Declaration of Covenants for Deerlake Village recorded in Deed Book 310, at Page 626 (and any amendments thereto), including; but not limited to the above referenced Supplemental Declaration, and any rules and regulations of the Association shall be enforceable by the Association against each lot owner and the Association shall be entitled to use all remedies of enforcement allowed by law or in equity, including, but not limited to the North Carolina Planned Community Act, Chapter 47F.**







**APPENDIX C: RESTRICTIONS FOR CREEKSIDE LOTS (NUMBERED 8-17)**

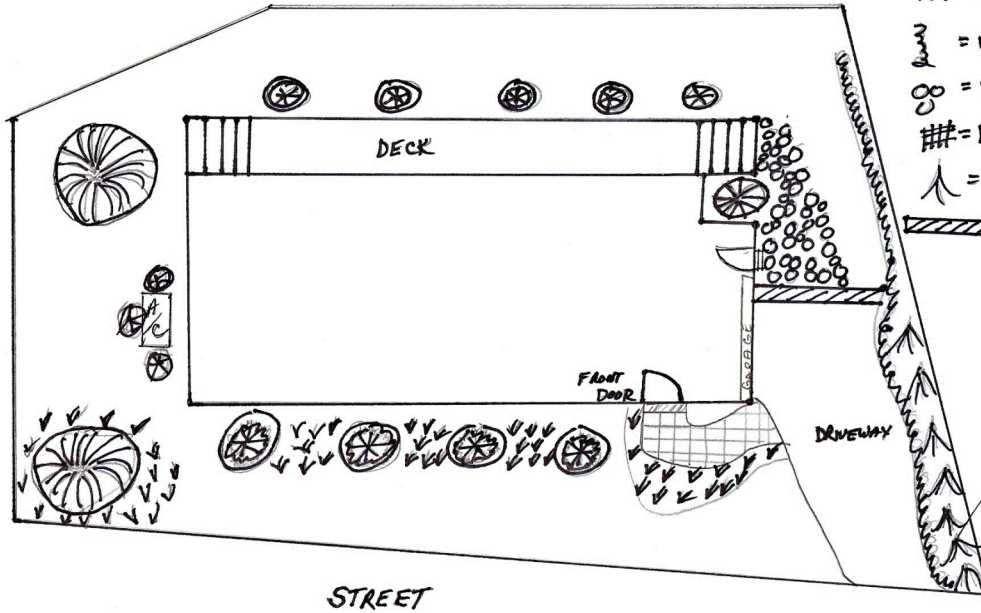
- 1 No fence or dog runs may be located on any lot at any time.
- 2 No stream shall be diverted or stream bed relocated on any lot nor any dam or other barrier be placed thereon which may interfere with the flow of surface water across the lot. **No structure shall be constructed or located within the wetland areas delineated for each lot and as shown on Exhibits 1A-ID to the Supplemental Declaration of Covenants for the annexation of the Lakeside and Creekside Lots into Deerlake Village.**
- 3 To the extent that is reasonably possible to do so, driveways shall be offset so that the point on a lot where the driveway enters the street will not be directly across the street from the point where the driveway on another lot also enters the street.
- 4 Each owner shall be responsible for repairing and maintaining any bridges extending across streams which may be located on such owner's lot, **subject to the rules and regulations of the Deerlake Village Community Association, Inc.'s (hereinafter referred to as "the Association").**
- 5 No house constructed on a **Creekside lot (Lots 5-17)** containing a basement shall have more than two stories constructed above such basement.
- 6 **The above restrictions and the restrictions referred to in the Declaration of Covenants for Deerlake Village recorded in Deed Book 310, at Page 626 (and any amendments thereto), including, but not limited to the above referenced Supplemental Declaration, and any rules and regulations of the Association shall be enforceable by the Association against each lot owner and the Association shall be entitled to use all remedies of enforcement allowed by law or in equity, including, but not limited to, the North Carolina Planned Community Act, Chapter 47F.**

APPENDIX D: PRELIMINARY LANDSCAPE PLAN EXAMPLE

APPENDIX "D"

PRELIMINARY LANDSCAPE PLAN

-  = shrub
-  = tree
- W W W = annual/perennial
-  = woodland plants
-  = stone pavers
- ### = brick
-  = conifers
-  = retaining wall



## **Appendix E**

### **Sedimentation and Erosion Control**

This appendix is based on sections 6.4 and 6.5 of the Brevard UDO of January 2007 as amended.

#### I. Definition

Steep slope areas are defined as those areas with a slope of 15% or greater. Slope shall be determined by measuring the change in height for every 100 feet of horizontal distance. For example, a change in elevation of 15 feet over a horizontal distance of 100 feet equals a 15% slope.

#### II. Steep Slope Requirements

The ARC shall have the right to impose such conditions as are necessary to ensure proper sedimentation and erosion control.

A. These conditions may include but not be limited to the following:

1. The retention and planting of vegetation;
2. Sedimentation and erosion controls;
3. Cut and fill slope design and stabilization;
4. The degree of land disturbance; and
5. The location, form and design of proposed structures and driveways so as to minimize land disturbance.

B. Steep slope areas with an average slope of 25% or greater shall be delineated upon all final development plans and plats. Construction of house and driveway should make the smallest footprint possible on the land. Areas outside the development area shall be off-limits to all development or land disturbances of any kind whatsoever and shall be maintained in a naturally vegetated state.

#### III. Sedimentation and Erosion Prevention

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, drainage networks, or other surface waters, **the property owner shall at all times comply with all requirements of the North Carolina Sedimentation Pollution Control Act of 1973, as amended.**

A. The following conditions are considered hazardous, a nuisance, and a threat to property and the environment; creating such conditions and/or allowing them to continue shall constitute a violation of this Ordinance.

1. The discharge or deposition of sedimentation pollution from one parcel of land onto another parcel of land of the same or different ownership.
2. The discharge or deposition of sedimentation pollution onto a street or public right-of-way, including drainage ditches and swales within a public right-of-way.
3. The discharge or deposition of sedimentation pollution into any surface water, including drainage ditches and swales.
4. The discharge or deposition of sedimentation pollution into wetlands, surface water protection areas, or other protected areas.
5. The uncontrolled or uncontained movement of sedimentation pollution within any parcel of land.
6. The presence of destabilized slopes that may collapse and pose a hazard to life or property.

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7. Any other condition that may pose a nuisance or hazard to life, property, or the environment by means of the movement, collapse, discharge, or deposition of earth.

#### B. Requirements of the Property Owner and Developer.

The property owner is responsible for ensuring that development complies with the following requirements of this Ordinance:

1. No land disturbance activity of any kind shall take place without a site plan approval authorizing development of the site.
2. Development shall at all times comply with the provisions of this Chapter and with the provisions of the North Carolina Sedimentation Pollution Control Act.
3. The discharge of sedimentation pollution from gardens, unsurfaced driveways and parking lots, grading, excavations, open cuts, side slopes, and other land surface disturbances shall be prevented, and all grading, excavations, open cuts, side slopes, and other land surface disturbances shall be mulched, seeded, sodded, or otherwise protected with appropriate sedimentation and erosion control treatments.
4. All cut slopes, fill slopes, side slopes, road or driveway embankments, and any other sloping excavated area or land disturbance **shall be stabilized at all times** to prevent potentially hazardous subsidence or collapse, or the discharge of sedimentation pollution. Such areas shall at all times be maintained at a slope ratio of no greater than 2 feet of horizontal run to 1 foot of vertical rise (2:1 slope).
5. Erosion and sedimentation from all land disturbance activities shall be controlled and contained with silt fencing, road matting, and any other method approved by the ARC to prevent the deposition of sedimentation pollution upon adjoining parcels, lots, streets, and any surface water. Failure to properly install and / or properly maintain approved sedimentation / erosion control measures shall constitute a violation of this Ordinance.
6. Furthermore, it is recognized that development projects are dynamic and that proposed and approved sedimentation / erosion control measures may, from time to time, prove inadequate. Therefore, it shall also be a violation of this Ordinance to fail to install additional sedimentation / erosion control measures upon observing, or being notified, that approved and installed sedimentation / erosion control measures are insufficient.
7. At a minimum, erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from a ten-year storm. (1" in 10 minutes/6.53 " in 24 hours)
8. Areas that are subject to severe erosion shall be identified and receive special attention.

#### IV. Surface Water Protection Requirements

##### A. Surface Water Protection Area Delineation.

Surface water protection area requirements apply to streams and other surface water bodies, as well as lands within thirty (30) feet from the top of each bank of a stream or other surface water body.

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1. For streams and other surface waters with defined channels, protection area widths are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the channel.
2. "Top of bank" shall be determined by the Administrator\* by considering factors such as the break in slope for a watercourse and the presence of streamside vegetation. (*This administrator is the Code Administrator in the Brevard Planning Department.*)
3. For wetlands, as defined in this Ordinance, protection area widths are measured horizontally, landward from the outermost point at which wetland conditions can be identified.
4. For ponds, lakes, and other impounded surface waters, protection areas widths are measured horizontally, landward from the ordinary high water line.
5. For other surface waters, the protection area shall be determined by the Administrator in consideration of the purposes of this section.
6. When a combination of floodway / non-encroachment area and / or surface water types exist, the most restrictive measurement of surface water protection area shall apply.

#### B. Surface Water Protection Area Requirements.

1. Protection areas shall be left in a naturally vegetated state, unless reforestation of disturbed protection areas is required as part of any site plan approval. When reforestation of a disturbed protection area is required, it shall be done in accordance with a planting plan approved by the Administrator.
2. Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the protection area.
3. Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to avoid the formation of erosion gullies.
4. Diffuse flow of runoff shall be maintained in the protection area by dispersing concentrated flow and reestablishing vegetation.
5. Surface water protection areas shall be delineated upon any development plan and shall be noted as protection areas within which no disturbance or development shall be permitted.
6. The following impacts are expressly forbidden in surface water protection areas (including floodways, non-encroachment areas) and associated water bodies:
  - a. The placement of fill or the deposition of any natural or manmade material or substance;
  - b. New development, substantial improvements, new construction, new impervious surfaces, the placement of structures or any other form of development or encroachment, except those associated with public utilities;
  - c. Grading, excavation, the removal of vegetation, or any disturbance of any kind; except excavation and fill required to plant any new trees or vegetation;
  - d. The ditching, dredging, channelization, straightening, relocation, diking, levying, or any other alteration or modification of any kind, to surface waters, except dredging necessary to maintain pre-existing, human-made water impoundments such as ponds and lakes;

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- e. The routing underground (by culvert or other means) of any surface water, except to facilitate crossings by approved roads, streets, driveways, greenways, sidewalks, and other transportation facilities;
  - f. The impoundment of water bodies (this shall not prohibit the maintenance of existing ponds, lakes, and other impoundments); and
  - g. Any other type of encroachment, disturbance, or modification to floodways, non-encroachment areas, or other surface water protection areas or associated surface waters.
7. The following protection area impacts are permitted; however, design and construction shall comply with applicable City standards for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.
- a. Road crossings for connectivity or transportation links and required utilities including public and private streets, driveways, and bridges, where the City of Brevard has granted site plan approval.
  - b. The removal of invasive exotic plant and tree species or trees posing a hazard to life or property with permission of LRC.

## **Appendix F**

### **Surface Water Protection Requirements**

This appendix is based on section 6.7.D & E of the Brevard UDO of January 2007 as amended.

#### **D. Surface Water Protection Area Delineation.**

Surface water protection area requirements apply to streams and other surface water bodies, as well as lands within thirty (30) feet from the top of each bank of a stream or other surface water body.

1. For streams and other surface waters with defined channels, protection area widths are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the channel.
2. "Top of bank" shall be determined by the Administrator by considering factors such as the break in slope for a watercourse and the presence of streamside vegetation.
3. For wetlands, as defined in this Ordinance, protection area widths are measured horizontally, landward from the outermost point at which wetland conditions can be identified.
4. For ponds, lakes, and other impounded surface waters, protection areas widths are measured horizontally, landward from the ordinary high water line.
5. For other surface waters, the protection area shall be determined by the Administrator in consideration of the purposes of this section.
6. When a combination of floodway / non-encroachment area and / or surface water types exist, the most restrictive measurement of surface water protection area shall apply.

#### **E. Surface Water Protection Area Requirements.**

1. Protection areas shall be left in a naturally vegetated state, unless reforestation of disturbed protection areas is required as part of any site plan approval. When reforestation of a disturbed protection area is required, it shall be done in accordance with a planting plan approved by the Administrator.
2. Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the protection area.
3. Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to avoid the formation of erosion gullies.
4. Diffuse flow of runoff shall be maintained in the protection area by dispersing concentrated flow and reestablishing vegetation.
5. Surface water protection areas shall be delineated upon any development plan and shall be noted as protection areas within which no disturbance or development shall be permitted.
6. The following impacts are expressly forbidden in surface water protection areas (including floodways, non-encroachment areas) and associated water bodies:
  - a. The placement of fill or the deposition of any natural or manmade material or substance;
  - b. New development, substantial improvements, new construction, new impervious surfaces, the placement of structures or any other form of development or encroachment, except those associated with public utilities;
  - c. Grading, excavation, the removal of vegetation, or any disturbance of any kind; except excavation and fill required to plant any new trees or vegetation;
  - d. The ditching, dredging, channelization, straightening, relocation, diking, levying, or any other alteration or modification of any kind, to surface waters, except dredging necessary to maintain pre-existing, human-made water impoundments such as ponds and lakes;

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- e. The routing underground (by culvert or other means) of any surface water, except to facilitate crossings by approved roads, streets, driveways, greenways, sidewalks, and other transportation facilities;
  - f. The impoundment of water bodies (this shall not prohibit the maintenance of existing ponds, lakes, and other impoundments); and
  - g. Any other type of encroachment, disturbance, or modification to floodways, nonencroachment areas, or other surface water protection areas or associated surface waters.
7. The following protection area impacts are permitted; however, design and construction shall comply with applicable City standards for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.
- a. Road crossings for connectivity or transportation links and required utilities including public and private streets, driveways, and bridges, where the City of Brevard has granted site plan approval.
  - b. Parallel water and sewer utility installation as approved by City of Brevard.
  - c. Approved public or common area open space, paths and trails. Pathways should use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall be “on grade” and shall preserve existing drainage patterns and avoid drainage structures that concentrate stormwater.
  - d. Incidental drainage improvements/repairs for maintenance provided that such maintenance does not result in channelization, straightening, or modification of the natural course of a stream channel or the deforestation of the regulatory floodway or protection areas.
  - e. Mitigation approved by a local, state, or federal agency acting pursuant to Sections 401 or 404 of the Federal Clean Water Act.
  - f. Stream bank or stream channel restoration or soil stabilization activities of the North Carolina Cooperative Extension Service, Transylvania County Soil and Water Conservation Service, USDA Natural Resources Conservation Service, Transylvania County, the City of Brevard, the North Carolina Forest Service, or a cooperating organization or entity. This exception does not include the straightening or channelization any watercourse.
  - g. The removal of invasive exotic plant and tree species or trees posing a hazard to life or property.
8. Uses permitted in the protection area shall be coordinated to ensure minimal disturbance of the protection area system. For example, if it is necessary to install utilities within the protection area and if greenway trails are then to be built, they should follow these cleared areas instead of necessitating additional clearing.
9. The approving authority may reduce the required setbacks by up to 20% of the required distance in order to facilitate compliance with this section. Additional setback deviations shall be considered as variances by the Board of Adjustment in accordance with the procedures set forth in this Ordinance.