

## CONSTRUCTION ACTIVITIES AND COMPLIANCE DEPOSIT REGULATION

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1. Title. This regulation shall be known as the “Construction Activities and Compliance Deposit Regulation.”
2. Purpose and Applicability. The purpose of this regulation is to regulate Construction Activity (as such term is defined below) within Beaver Creek to minimize the impacts of Construction Activity on Guests and Owners. The Beaver Creek Resort Company has the power to amend this Regulation from time to time, without notice. This regulation shall not apply to any land contained within the Mountain Facility as the term is more particularly described in the Amended and Restated General Declaration Beaver Creek, Eagle County, Colorado, as recorded with the Clerk and Recorder of Eagle County, Colorado, on December 27, 1979, in Book 296, at Page 446, as amended from time to time.
3. Definitions. Unless otherwise stated, all capitalized terms used herein shall have the meanings given to them in the Amended and Restated General Declaration for Beaver Creek, Eagle County, Colorado, as recorded with the Clerk and Recorder of Eagle County, Colorado, on December 27, 1979, in Book 296, at Page 446, as amended from time to time (the “Declaration”). In addition, as used in this regulation, the following terms shall have the following meanings:
  - 3.01 “Beaver Creek Public Safety” means Beaver Creek Public Safety Department.
  - 3.02 “Compliance Deposit” means the deposit that an Owner is required to deliver to the Beaver Creek Resort Company prior to commencing a Construction Activity.
  - 3.03 “Construction Site” means a site upon which Construction Activity takes place.
  - 3.04 “Construction Activity” means any site preparation; landscaping; building construction; sign erection; exterior or interior change, modification, alteration or enlargement of any existing structure; paving; fencing; planting or other improvements, maintenance or repair to any Site or other property or building or structure thereon.

Any part of the foregoing notwithstanding, each of the following activities shall not constitute a Construction Activity if the activity is conducted in accordance with the time and manner limitations set forth in this paragraph:

1. Routine maintenance of building exteriors or grounds, including, but not limited to activities such as window cleaning, power washing of decks and walkways, gutter repair or cleaning, mowing, planting bed maintenance, snow removal operations, and re-painting or re-staining of the same color for maintenance purposes;
2. Maintenance, repair or change to the building interiors or systems, including but not limited to activities related to plumbing, HVAC, electrical, audio/video or other interior equipment or systems;

Provided, however, that maintenance, repair, or change activity shall not be excepted from the definition of a “Construction Activity” if the activity:

- i. creates a new bedroom, or additional useable space;
- ii. requires or would cause the construction or alteration of any utility improvement other than a utility improvement contained wholly within an existing improvement;

- iii. uses a lay-down area for materials or equipment that is not contained wholly within an existing improvement;
  - iv. uses a portable toilet for construction workers;
  - v. creates site disturbance that would cause, or has the potential to cause, soil erosion;
  - vi. requires or would cause any construction vehicle to visit the site to deliver materials or equipment;
  - vii. requires or would cause a Construction Vehicle to visit the site for maintenance or repair activities for more than five (5) consecutive days or more than ten (10) days in total; or
  - viii. requires or would cause the activity, systems, equipment, or tools related to the activity to be visible from the exterior of an existing improvement for more than five (5) consecutive days or more than 10 days in total.
- 3.05 “Construction Management Plan” means the document generated by the Owner or Owner’s Representative that lists in detail each component of the Construction Activity as defined in 3.04.
- 3.06 “Construction Vehicle” means a 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.
- 3.07 “DRA” means the staff member(s) of the Design Review Administration department who administers this Regulation.
- 3.08 “DRB” means the Design Review Board with authority as appointed by the Beaver Creek Resort Company Board of Directors.
- 3.09 “Existing Improvement” means any man-made fully enclosed structure previously approved by the DRB.
- 3.10 “Holiday” means New Year’s Day, President’s Day, Easter Sunday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day. In addition, “Holiday” shall mean the period of time beginning on the twenty-fourth (24<sup>th</sup>) day of December each year and ending on the fifth day of the next year. For purposed of the regulation, if a Holiday falls on a Saturday, the immediately preceding Friday shall be considered a Holiday as well, and if a Holiday shall fall on a Sunday, the immediate subsequent Monday shall be considered a Holiday as well.
- 3.11 “Low Impact Project” means any Construction Activity that involves the rebuilding, reconstruction or alteration of an existing improvement, but does not involve: (i) the construction of any improvement outside of or on the exterior of an existing improvement; (ii) the use of a laydown area outside of an existing improvement; (iii) the use of a portable toilet for construction workers; or (iv) Construction Site disturbances that would cause, or would have the potential to cause, soil erosion.
- 3.12 “Owner” means any person(s) or entity that is listed on the Warranty Deed of the property.
- 3.13 “Owner Representative” means any contractor, subcontractor, agent or employee hired or engaged by an Owner in connection with any Construction Activity.
- 3.14 “Regulation” means this Construction Activities and Compliance Deposit Regulation document.
- 3.15 “Substantially Complete” means that stage of a Construction Activity at which the work is sufficiently complete so as to allow the owner to legally occupy or utilize the work for its intended use. Legal occupation

or utilization means that the Owner has obtained a temporary certificate of compliance from the DRB and a temporary certificate of occupancy from Eagle County. Notwithstanding any other provision hereof, a Construction Activity shall not be deemed to be Substantially Complete until all exterior finish work and landscaping work has been completed and all requirements of the Construction Management Plan have been met.

- 3.16 “Temporary Structure” shall mean any structure erected or otherwise installed as a job office or for the purpose of storing materials in connection with a Construction Activity. “Temporary Structure” shall also include a portable toilet and trash dumpster used in connection with a Construction Activity.

4. Construction Process, Approvals and Inspections.

- 4.01 Construction Process. Prior to engaging in a Construction Activity, an Owner or Owner Representative shall arrange a preplanning meeting with the DRA for information about the Beaver Creek Resort Company’s Design Review and development process and the DRB’s concerns with respect to particular Sites.
- 4.02 Preconstruction Requirements. No Owner shall commence any Construction Activity until it has satisfied all applicable preconstruction requirements set forth in this Section 4.02.
- (a) If and as required by the Beaver Creek Design Review Regulations or other applicable regulations, the Owner shall have received Final Plan approval from the DRB of the Construction Activity.
  - (b) The Owner shall: (i) submit final working drawings; (ii) prepare and submit a written Construction Management Plan which includes (A) initial Erosion Control and Soil Stabilization Plan (as described in paragraph 6.01 below), (B) permanent Erosion control and Revegetation Plan (as described in paragraph 6.01 below), and (C) Transportation and Parking Plan (as described in paragraph 6.10 below); (iii) stake the footprints of (A) all improvements to be constructed on the Site, and (B) all parking, storage and laydown areas; (iv) request a site inspection from the DRA; and (v) deliver its Compliance Deposit to the DRA in accordance with Section 5 below. If the DRA rejects such submittals or finds the results of the site inspection to be unsatisfactory, the Owner shall make such changes as the DRA shall require and then resubmit such submittals to the DRA and/or request a follow-up site inspection from the DRA, as the DRA may require. If the DRA approves such submittals, finds the results of the site inspection to be satisfactory and receives the Owner’s Compliance Deposit, the DRA shall approve the Owner’s proposed Construction Activity and the Owner shall proceed as described in subparagraph 4.02(d) or, as applicable, 4.02 (e) below.
  - (c) Subsequent to delivery of final working drawings and the Compliance Deposit to the DRA under subparagraph 4.02 (b) above, the Owner may submit identical final working drawings to the Eagle County Building Department for its plan check process. In no event shall an Owner (i) initiate the plan check process with the Eagle County Building Department prior to the DRA’s approval of the Owner’s plans, or (ii) submit final working drawings to the Eagle County Building Department that differ from those that the Owner submits to the DRA.
  - (d) Except as provided in subparagraph (e) hereof, prior to requesting a building permit from the Eagle County Building Department, the Owner shall provide the DRA with a site plan which depicts the following: (i) the location of all areas which will be disturbed by the Construction Activity; (ii) the location of all utilities to be constructed and used in connection with the project; (iii) the location of all laydown areas; (iv) the Transportation and Parking Plan (as described in paragraph 6.10 below); (v) the location of all fencing proposed for the project or to be used to screen the Construction Activity; (vi) the location of any portable toilets to be used in connection with the Construction Activity; (vii) the location of any trash dumpsters to be used in connection with the Construction Activity; (viii) the initial Erosion Control and Soil Stabilization Plan (as described in paragraph 6.01 below); and (ix) the location of any proposed snow storage areas for the project. Prior to requesting a building permit from

the Eagle County Building Department, the Owner shall obtain the approval of Beaver Creek Public Safety and the Beaver Creek Metropolitan District of the site plan submitted pursuant to this paragraph. After the DRA approves the Construction Activity contemplated by the Owner as described in subparagraph 4.02(c) above and after DRA and the Beaver Creek Metropolitan District approve the site plan or plans submitted pursuant to this paragraph, the Owner may request a building permit from the Eagle County Building Department and request any and all other necessary permits and approvals from Eagle County, Colorado, the Beaver Creek Metropolitan District and any other governmental or quasi-governmental entity with jurisdiction over the Construction Site. In no event shall an Owner (i) request a building permit from the Eagle County Building Department prior to the DRA's approval of the Owner's proposed Construction Activity as described in subparagraph 4.02(b) above, or (ii) commence any Construction Activity prior to obtaining (A) the DRA's approval of such Construction Activity as described in subparagraph 4.02(b) above, and (B) a building permit and all other necessary permits and approvals from Eagle County, Colorado, the Beaver Creek Metropolitan District and any other governmental or quasi-governmental entity with jurisdiction over the Construction Site.

- (e) Any part of the foregoing notwithstanding, prior to requesting a building permit from the Eagle County Building Department for any Construction Activity that constitutes only a Low Impact Project, the Owner only needs to provide Beaver Creek Public Safety and the DRA with a work plan which shall include (i) a detailed description of all work to be performed; (ii) a construction staging plan; and (iii) the name, telephone and email address of the Owner. The construction-staging plan shall include the timing of all Construction Activity, the location of all areas in which construction vehicles will be parked, and the location of any trash dumpsters to be used in connection with the Construction Activity. Prior to requesting a building permit from the Eagle County Building Department, the Owner shall obtain the approval of Beaver Creek Public Safety of any work plan submitted pursuant to this subparagraph.

4.03 Construction Inspections. In addition to any inspections or certificates required by the Eagle County Building Department, the Beaver Creek Metropolitan District and any other governmental or quasi-governmental entity with jurisdiction over the Construction Site, an Owner must schedule the following inspections with the DRA or provide the following certificates to the DRA:

- (a) Prior to commencing its Construction Activity, the Owner shall request a site inspection as described in subparagraph 4.02(b) above.
- (b) Upon the completion of the footings for each building foundation and prior to the commencement of any framing activity, the Owner shall request a foundation inspection from the DRA and shall, within fifteen (15) days thereafter, deliver to the DRA an improvement location certificate for the Construction Site which (i) is certified by an engineer or surveyor registered in the State of Colorado; and (ii) shows the location of all permanent improvements then located on the Construction Site. Thereafter, the DRA shall inspect the foundation to ensure that the Construction Activity is being performed in compliance with the approved final working drawings and this Regulation.
- (c) Upon completion of core and shell framing, and prior to exterior finishing and any framing inspection as applicable by Eagle County, the Owner shall request a framing inspection from the DRA and, simultaneously therewith, deliver to the DRA an improvement location certificate for the Construction Site, which (i) is certified by an engineer or surveyor registered in the State of Colorado; (ii) shows the location of all permanent improvements then located on the Construction site and (iii) sets for the elevations of the garage slab –and the highest roof ridge, at the time of framing, of all such permanent improvements. Thereafter, the DRA will inspect the framing to ensure that the Construction Activity is being performed in compliance with the approved final working drawings and this Regulation.

- (d) Upon Substantial Completion of the Construction Activity, the Owner may request a temporary certificate of compliance inspection from the DRA. Thereafter, the DRA shall inspect the Construction Site to ensure that the Construction Activity is Substantially Complete and has been performed in compliance with the approved final working drawings and this Regulation.
- (e) Upon final completion of all portions of the Construction Activity, including all landscaping required in connection therewith and all remedial work that the DRA required the Owner to perform following the temporary certificate of compliance inspection described in subparagraph 4.03(d) above, the Owner shall request a final inspection from the DRA. Thereafter, the DRA shall inspect the Construction Site to ensure that all portions of the Construction Activity, including all such landscaping and remedial work, are fully complete and have been performed in compliance with the approved final working drawings and this Regulation.
- (f) The DRB shall use its best efforts to conduct the inspections described in sub-paragraphs 4.03(a) through (e) above in a timely manner after receiving written requests for inspection. The DRB may enter upon a Construction Site at any reasonable time to inspect the progress of a Construction Activity and ensure compliance with approved final plans and this Regulation.

4.04 Certificates of Compliance and Occupancy. “Certificates of compliance” are issued by the DRB. “Certificates of occupancy” are issued by the Eagle County Building Department. An Owner may not occupy or otherwise use any improvement constructed on a Construction Site until it has first received (i) a certificate of compliance or temporary certificate of compliance from the DRA, and then (ii) a certificate of occupancy or a temporary certificate of occupancy from the Eagle County Building Department.

- (a) If an Owner has performed its Construction Activity in compliance with its approved final plans and this Regulation, the DRA will issue a certificate of compliance to the Owner following a final inspection conducted under subparagraph 4.03(e) above. If the Owner has failed to perform its Construction Activity in compliance with its approved final plans and this Regulation, the Owner shall promptly perform such remedial work as the DRA shall require.
- (b) If an Owner has performed its Construction Activity in compliance with its approved final plans and this Regulation, but certain insubstantial details of construction or landscaping remain to be completed, the DRA may, but is not required to, issue a temporary certificate of compliance to the Owner following an inspection under paragraph 4.03(c) above. If the Owner has failed to perform its Construction Activity in compliance with its approved final plans and this Regulation, the Owner shall promptly perform such remedial work as the DRA shall require. The DRA may condition its issuance of a temporary certificate of compliance upon an increase in the amount of the Owner’s Compliance Deposit as described in subparagraph 5.03(f) below.
- (c) In no event shall an Owner apply for a temporary or final certificate of occupancy from the Eagle County Building Department without first having obtained a temporary certificate of compliance from the DRA.

5. Compliance Deposit. After the DRA approves an Owner’s proposed Construction Activity as set forth in paragraph 4.02 (b) above, and prior to commencing such Construction Activity, the Owner shall deliver a Compliance Deposit to the DRB, on behalf of the Beaver Creek Resort Company, as security for the Owner’s full and faithful performance of its Construction Activity in accordance with its approved final plans and this Regulation.

5.01 Amount of Compliance Deposit.

- (a) For new construction or remodels which include the addition of square footage, the amount of the Compliance Deposit shall be based upon the aggregate square footage, as measured from the outer

dimensions of the framed structure, of all enclosed structures to be built, modified, altered or repaired on a Construction Site as follows:

<u>Square Footage</u>	<u>Deposit</u>
0 - 499	\$ 5,000
500 - 1,999	\$10,000
2,000 - 4,999	\$20,000
5,000 - 6,999	\$30,000
7,000 - 8,999	\$40,000
9,000 and greater	\$50,000

- (b) For all other Construction Activity the amount of the Compliance Deposit shall be equal to two (2%) percent of the estimated cost of the Construction Activity as set forth in the building permit application submitted by the Owner to the Eagle County Building Department for such activity, but in no event less than \$5,000.

5.02 Form of Compliance Deposit. The Compliance Deposit shall be delivered to the DRA, by personal, certified or cashier’s check or by wire transfer.

5.03 Administration of Compliance Deposit. The DRA, on behalf of the Beaver Creek Resort Company, shall administer each Compliance Deposit as follows:

- (a) The DRA shall hold the Compliance Deposit as security for the Owner’s full and faithful performance of its Construction Activity in accordance with its approved final plans, this Regulation, and all aspects of its Construction Management Plan
- (b) Owner is required to request final inspection and receive Certificate of Compliance prior to requesting a final Compliance Deposit refund.
- (c) The Beaver Creek Resort Company may, directly through the DRA, or upon request of the Beaver Creek Metropolitan District, use, apply or retain the whole or any part of a Compliance Deposit to the extent required to reimburse the Beaver Creek Resort Company or the Metropolitan District for any cost which the Beaver Creek Resort Company or Metropolitan District may incur, or may be required to incur, by reason of an Owner’s non-compliance in respect of any of the terms and conditions set forth herein or set forth in the Beaver Creek Internal Road Regulations as adopted by the Metropolitan District. The Beaver Creek Resort Company or Metropolitan District shall be entitled to a fee in an amount equal to 15 percent (15%) of the amount of any costs incurred by the Beaver Creek Resort Company or Metropolitan District to cure any such noncompliance by an Owner, which fee may be paid from the Compliance Deposit. If the amount of the Compliance Deposit is not sufficient to cure any such noncompliance by an Owner, the Beaver Creek Resort Company may, directly or through the DRA, apply the Compliance Deposit in a manner which best mitigates the effects of such noncompliance while not actually curing the non-compliance. In addition, the Beaver Creek Resort Company may, directly or through the DRA, use, apply or retain the whole or any part of a Compliance Deposit to pay to the Beaver Creek Resort Company any fine imposed by the Beaver Creek Resort Company, the DRB or Beaver Creek Public Safety under paragraph 7.02 below that is not paid as and when the same becomes due and payable.
- (d) The Beaver Creek Resort Company’s decision to use the Compliance Deposit as permitted hereunder shall be at the sole and absolute discretion of the Beaver Creek Resort Company.
- (e) If the Beaver Creek Resort Company uses part or all of the Compliance Deposit as set forth in subparagraph 5.03(c) above, then the DRB shall provide on a quarterly basis, to both the Owner and any Owner Representative, an accounting of the Compliance Deposit. If the Beaver Creek Resort

Company uses part of the Compliance Deposit as set forth in paragraph 5.03(c) above, and said use results in the diminution of the Compliance Deposit by ten percent (10%) or more of its original amount, then the Owner shall, within ten days after written demand to the Owner from the Beaver Creek Resort Company or the DRB, pay the Beaver Creek Resort Company the amount used so as to restore the Compliance Deposit to its original amount. Neither the Owner nor any other party shall have any rights of any kind or nature against the Beaver Creek Resort Company, its officers, agents, employees, directors or attorneys arising out of the Beaver Creek Resort Company's use of the Compliance Deposit, unless the Beaver Creek Resort Company is grossly negligent, or intentionally acts in bad faith.

- (f) The Beaver Creek Resort Company shall be under no obligation of any kind or nature to take any action to complete any Construction Activity, or cure any failure of the Owner to comply with all regulations pertaining to the Construction Activity.
- (g) Any part of the Compliance Deposit not used by the Beaver Creek Resort Company as permitted by subparagraph 5.03(c) above shall be returned to the Owner within fifteen business days after a Construction Activity is Substantially Complete and a written request has been made. No portion of the Compliance Deposit shall be returned to an Owner upon the DRA's issuance of a temporary certificate of compliance. The DRA may condition its issuance of a temporary certificate of compliance upon its receipt from the Owner of funds sufficient to increase the amount of the Compliance Deposit to an amount equal to the product obtained by multiplying (i) the cost of that portion of the Construction Activity that remains to be completed, as estimated by the DRB, by (ii) 1.15.

6. Construction Requirements. Each Owner shall ensure that all Construction Activity that is performed on its Construction Site is performed in accordance with the following requirements.

6.01 Erosion Control and Vegetation Protection.

- (a) The DRA shall not approve any proposed Construction Activity under subparagraph 4.02(b) above, unless and until it has approved an initial Erosion Control and Soil Stabilization Plan and a permanent Erosion Control and Revegetation Plan for the Construction Site. The Owner of the Construction Site is responsible for preparing and submitting such plans to the DRA, Beaver Creek Public Safety and Beaver Creek Metropolitan District. If the DRA rejects any such plan submitted by the Owner, the Owner shall make such changes to the plan as the DRA shall require and resubmit the plan to the DRA. Once the DRA has approved such plans for a Construction Site, the Owner shall ensure that all Construction Activity is performed in compliance with such plans. In addition, the Owner shall ensure that (a) trees not authorized for removal are not damaged; (b) brush, surplus soil, and other excavated debris are promptly removed from the Construction Site; (c) dust is controlled by a dust abatement method approved by the DRA; and (d) during all Construction Activity, all driveway, parking and laydown areas are covered with at least two inches of three-quarter-inch screened rock or other suitable material if required.
- (b) Prior to commencing any Construction Activity, the Owner shall ensure that the area identified as the disturbance area on the site plan submitted pursuant to paragraph 4.02(d) is enclosed on those sides or areas subject to erosion, as determined by DRA and the Metropolitan District, by an erosion fence adequate for site conditions. The erosion fence shall be continuously maintained in good condition by the Owner. Prior to the placement of said erosion fence, a representative of DRA and the Metropolitan District shall inspect the Construction Site to ensure (i) that all areas likely to be disturbed by the proposed Construction Activity are included within the area identified as the disturbance area on such site plan and (ii) that the proposed erosion fence is adequate for site conditions.

- 6.02 Noise and Construction Days and Hours. Except as provided below, Construction Activity may occur on a Site only during the following days and hours, which days and hours are referred to in the Beaver Creek Resort Company's Noise Regulation as the "regular construction days and hours":

<u>Monday through Friday:</u>	7:30 a.m. to 6:30 p.m.
<u>Saturday:</u>	8:00 a.m. to 5:30 p.m.

Notwithstanding the foregoing, and except as set forth below, no Construction Activity shall be allowed on any Sunday or Holiday.

With prior written approval of Beaver Creek Design Review Administration, a Construction Activity may occur on a Site during the following days and hours so long as the Construction Activity is occurring within a fully enclosed structure and does not exceed the noise limit set forth for the subject property under Section 3.4 of the Beaver Creek Resort Company's Noise Regulation:

<u>Monday through Friday:</u>	7:30 a.m. to 9:00 p.m.
<u>Saturdays, Sundays and Holidays:</u>	8:00 a.m. to 5:30 p.m.

- 6.03 Protection of Property. An Owner's Construction Activity shall be limited to its Construction Site, unless Beaver Creek DRA provides specific written authority to the contrary. An Owner shall cause any common ground, adjacent lots or roads damaged during its Construction Activity to be restored to the Beaver Creek Metropolitan District's and the Beaver Creek Resort Company's satisfaction promptly and, in any event, within thirty days after such damage occurs. In order to protect neighboring properties, the Owner shall ensure that a temporary visual screen or temporary fence of not less than six feet in height be constructed and maintained along the front, side and rear lot lines of a Construction Site as determined by the DRA. Said fence or visual screen shall be green in color.
- 6.04 Temporary Structures. Temporary Structures may be maintained on a Construction Site. Temporary living quarters shall not be permitted on a Construction Site. All Temporary Structures erected on a Construction Site shall be removed within thirty days after completion of the Construction Activity. Temporary Structures shall be screened to minimize the visual impact to other Owners and Guests. Plans for the placement and screening of Temporary Structures must be approved by Beaver Creek DRA prior to the erection of the Temporary Structures. Trash dumpsters maintained on a Construction Site are deemed to be temporary structures and shall be visually screened to the greatest extent practicable. Once a trash dumpster is one-half (1/2) full, it shall be covered with a cover supplied by the owner of the dumpster, or with a cover that has been approved by Beaver Creek DRA, until emptied or removed from the Construction Site.
- 6.05 Water Connections and Toilets. For new construction, a temporary water connection and on-site enclosed chemical toilets must be available at all times when Construction Activity is taking place on a Construction Site. Chemical toilets shall be screened from view by means of a wood enclosure, which enclosure shall be constructed of T-111, a common pre-stained wood siding material, or an equivalent material. Chemical toilets shall be located so as to minimize any adverse impacts on adjacent Sites.
- 6.06 Blasting Restrictions. No blasting shall be performed on any Construction Site without Beaver Creek Public Safety's prior consent. Blasting may be subject to certain restrictions, which shall be determined by Beaver Creek Public Safety in its sole and absolute discretion and which may vary from Site to Site.
- 6.07 Signs. Unless otherwise required by state or federal law no signs shall be displayed on a Construction Site without the prior written approval of the DRB. The Owner shall have the burden of establishing that a given sign is required by state and federal law.
- 6.08 Roadway Maintenance. An Owner shall repair any damage to roads within Beaver Creek caused by Construction Vehicles or equipment or materials used in connection with such Owner's Construction



Activity and shall keep all such roads free and clean of all materials, rubbish, dirt, mud and debris resulting from such Owner's Construction Activity. Any dirt, mud, rubbish, debris or material of any sort which is found on roads within Beaver Creek and which is caused by an Owner's Construction Activity shall be removed by said Owner within twenty-four hours of its occurrence. No road cuts, deletions or additions shall be made without the consent of the Beaver Creek Metropolitan District.

6.09 Access and Parking.

- (a) Construction Vehicles shall gain access to Construction Sites only from existing roads adjacent to the Construction Sites or, when such access is impracticable, from adjacent property with the written approval of the owner of that property. No Construction vehicle shall arrive at, depart from, or have access to a Construction Site between the following hours each day: 7:15 p.m. and 7:15 a.m. Construction Vehicles shall be parked within a Construction Site or within the Site on which the Construction Activity occurs. No Construction Vehicle shall be parked on or along roads within Beaver Creek nor upon or within Beaver Creek Metropolitan District right-of-ways. Construction Vehicles shall be parked wholly within a Site or Construction Site. The Owner of a Site in which the physical or topographic conditions prevent the parking of more than five (5) Construction Vehicles within the Site may request the approval of Beaver Creek Public Safety, DRA and Beaver Creek Metropolitan District to park Construction Vehicles within the Beaver Creek Metropolitan District right-of-way (streets) so long as all such parking is within the extended boundaries of the Site upon which the Construction Activity is to occur. To facilitate vehicle movement, owners may park their vehicles within the Beaver Creek Metropolitan District right-of-way (streets) so long as all such parking is within the extended boundaries of the Site upon which the Construction Activity is to occur. The limitations of this subparagraph (a) shall apply only within the single-family neighborhoods within the Resort.
- (b) Prior to the site inspection described in subparagraph 4.02(b) above, an Owner of a Construction Site shall submit a written Parking and Transportation Plan to Beaver Creek DRA for Beaver Creek DRA's review and approval. Each such Parking and Transportation Plan shall describe (i) how and where Construction Vehicles will be parked at the Construction Site during the Construction Activity; (ii) the maximum number of Construction Vehicles that will be parked at the Construction Site at one time; and (iii) the manner in which construction workers will be transported to and from the Construction Activity.
- (c) No Construction Activity shall commence at a Construction Site until Beaver Creek DRA has approved a Parking and Transportation Plan for that Construction Site in writing. Beaver Creek DRA may require modifications to any proposed Parking and Transportation Plan submitted by an Owner. Such modifications may include, without limitation, modifications that (i) alter designated Construction Vehicle parking areas and; (ii) alter the manner in which construction workers will be transported to and from the Construction Site.

6.10 Construction Lighting. No Construction Site or Construction Activity shall be lighted unless and until a construction lighting plan has been submitted to, and approved by, Beaver Creek Public Safety and the DRA. All exterior construction lighting shall be connected to a motion sensor. All interior construction lighting, including lights within temporary structures such as construction offices, shall be turned off when not actually in use. Beaver Creek Public Safety/DRA shall not approve any construction lighting plan unless it determines that the proposed lighting will not cause unreasonable glare upon or the excessive lighting of property not owned by the Owner of the Construction Site.

6.11 Animals. No Owner Representative may keep or maintain a dog or other pet on a Construction Site at any time.

6.12 Business License. All Owners and Owner Representatives shall obtain an Annual Business License if required to do so per the Beaver Creek Resort Company's Annual Business License Regulation. See [www.BeaverCreekResortCompany.com](http://www.BeaverCreekResortCompany.com) for clarification.

- 6.13 Completion of Construction. Unless otherwise approved by the DRB, each Owner shall ensure that each Construction Activity it performs (a) commences within one (1) year after the DRB's approval of final plans therefor; (b) is Substantially Complete within sixteen (16) months after commencement thereof; and (c) is fully and finally complete, including all required landscaping, within twenty-four (24) months after commencement thereof. Notwithstanding the foregoing, any commercial project shall (a) commence within one (1) year after DRB's approval of final plans thereof, (b) be substantially complete within thirty (30) months after commencement thereof, and (c) be fully and finally complete, including all landscaping, within thirty-six (36) months after commencement thereof. For purposes of this section, a "commercial project" shall be any construction project other than a single-family residential project. The DRB may, upon application by an Owner, and a showing of good cause, extend the period herein provided for Substantial Completion or final completion for a period not to exceed (8) months with respect to Substantial Completion and six (6) months with respect to final completion. For purposes of this section "good cause" shall not include financial constraints or any other constraint which may reasonably be attributed to an action or failure to act of the Owner.
- 6.13 Compliance with Laws and Regulations.
- (a) Each Owner shall, at its own expense, comply with all terms and conditions of this Regulation, the Declaration and all other regulations promulgated from time to time by the Beaver Creek Resort Company and the DRB that are applicable to its Construction Activities.
  - (b) Each Owner shall, at its own expense, comply with all federal, state and local laws, ordinances, orders, rules, regulations and other governmental requirements relating to its Construction Activities.
  - (c) Each Owner shall, at its own expense, ensure that its Owner Representatives comply with the terms and conditions of subparagraphs 6.13(a) and (b) above.
7. Enforcement. If an Owner or any Owner Representative violates any term or condition set forth herein, the Beaver Creek Resort Company shall have the following rights and remedies.
- 7.01 Right to Cure. The Beaver Creek Resort Company or the DRB may after fifteen (15) days' notice to Owner or Owner's Representative, but is not obligated to, enter upon the Construction Site and cure such violation at the Owner's cost and expense. If the Beaver Creek Resort Company or DRB cures any such violation, the Owner shall pay to the Beaver Creek Resort Company the amount of all costs incurred by the Beaver Creek Resort Company or DRB in connection therewith, plus an administrative fee equal to 15 percent (15%) of all such costs, within fifteen (15) days after the Owner receives a written invoice therefor from the Beaver Creek Resort Company or DRB.
- 7.02 Right to Fine. Unless a more specific penalty is provided for the violation of any term or condition of this Regulation, the Beaver Creek Resort Company may impose a fine of not less than \$500 against the Owner for the first violation of any term or condition of this Regulation, and shall impose a fine of not less than \$1,000 for the second violation of the same term or condition of this Regulation. For each subsequent violation of that same term or condition, the Beaver Creek Resort Company shall impose a fine of \$5,000. Each day during which a violation of any term or condition of this Regulation continues shall be considered a distinct and subsequent violation for the purposes of this paragraph. The Beaver Creek Resort Company, DRA or Beaver Creek Public Safety shall provide written notice of any fine to both the Owner and the Owner Representative within five (5) days of any fine with the written details of such violation. The Owner shall pay any fine imposed under this paragraph 7.02 within thirty (30) days after Design Review Administration sends notice. The Beaver Creek Resort Company hereby delegates its power to fine under this paragraph 7.02 to the DRB and Beaver Creek Public Safety. Notwithstanding any other provision hereof, the failure of an Owner or an Owner Representative to comply with a written order of the Beaver Creek Resort Company, the DRB or Beaver Creek Public Safety to cease and desist from a violation of this Regulation, shall result in doubling of the maximum fine that could otherwise be imposed for the violation. If the written cease and desist order

contains a time period within which a violator is ordered to cease a violation, the passage of such time period, and the passage of each such time period thereafter in which such violation continues, shall result in the doubling of the fine imposed for the passage of the previous time period.

- 7.03 Right to Sue for Injunctive Relief. The Beaver Creek Resort Company may sue the Owner to enjoin such violation.
  - 7.04 Right to Sue for Damages. The Beaver Creek Resort Company may sue the Owner for all damages, losses, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements incurred by the Beaver Creek Resort Company as a result of the violation.
  - 7.05 Lien. The Beaver Creek Resort Company shall have a lien against the Site and all of the Owner's other properties within Beaver Creek to secure payment of (a) any fee, charge, fine or other amount due from the Owner to the Beaver Creek Resort Company under this regulation, (b) interest on any unpaid amounts at the rate of 18 percent (18%) per annum from the date due until paid, and (c) all costs and expenses of collecting any unpaid amounts, including, without limitation, reasonable attorneys' fees and disbursements. Any such lien may be foreclosed as a mortgage under the laws of the State of Colorado.
  - 7.06 Other Rights and Remedies. The Beaver Creek Resort Company shall have all other rights and remedies available to it at law or in equity. All rights and remedies of the Beaver Creek Resort Company shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.
8. Appeal of Fines. An Owner shall appeal any fine imposed against the Owner by the DRB or Beaver Creek Public Safety to the DRB's Fine Appeals committee (the "FAC") in accordance with the following terms and conditions. The FAC shall be comprised of three (3) members who shall be appointed by the DRB and who shall serve until excused by the DRB for any or no cause. One member of the FAC shall be a member of the DRB; one member of the FAC shall be a representative of Beaver Creek Public Safety; and one member of the FAC shall be a representative of the Beaver Creek Resort Company. Within thirty (30) business days after receiving written notice from the DRB or Beaver Creek Public Safety that such entity is imposing a fine against the Owner, the Owner may file a written appeal with the FAC. Said written appeal shall contain a brief statement of the factual and legal grounds of the appeal. If the Owner fails to file a written appeal with the FAC within such thirty-day period, the Owner shall have no further right to appeal the fine under this Section 8. If the Owner files a written appeal within such thirty-day period, (i) the FAC may review such appeal and deliver a written decision with respect thereto to the Owner and to the DRB or Beaver Creek Public Safety, as the case may be, within (30) days after its receipt of such appeal, or (ii) waive its right to hear such appeal, in which case an Owner may proceed in accordance with the Beaver Creek Resort Company's Fine and Penalty Appeal Regulation. The FAC shall act only upon a vote of the majority of its members. If the FAC decides in favor of the owner, the DRB or Beaver Creek Public Safety, as the case may be, shall revoke its notice imposing the fine. If the FAC decides in favor of the DRB or Beaver Creek Public Safety, as the case may be, the Owner shall pay such fine within (30) thirty days after its receipt of the FAC's decision.