

**HILO HILLSIDE ESTATES
DESIGN GUIDELINES**

_____, 20____

TABLE OF CONTENTS

	<u>Page</u>
1. AUTHORITY	1
2. PURPOSE; USAGE.....	1
3. AGRICULTURAL ZONING	1
4. SITE AND LANDSCAPE GUIDELINES	2
4.1 General Considerations.....	2
4.2 Lot Areas.....	3
4.3 Grading and Drainage.....	3
4.4 Car Parking	4
4.5 Fencing.....	4
4.6 Vacant Lots	4
4.7 Exterior Lighting.....	4
4.8 Setbacks	4
4.9 Minimum Square Footage.....	4
4.10 Building Height.....	4
4.11 Termite Treatment	5
4.12 Utilities.....	5
4.13 Waste Water Disposal.....	5
4.14 Solar Water Heater Installation.....	5
4.15 Skylight Installation.....	5
5. DESIGN REVIEW COMMITTEE ORGANIZATION	5
5.1 Design Review Committee Membership.....	6
5.2 Appointment of Members	6
5.3 Function of the DRC.....	6
5.4 Meetings.....	6
5.5 Amendment of Design Guidelines.....	6
5.6 Non-Liability.....	7
6. DESIGN REVIEW PROCEDURE.....	7
6.1 Pre-Design Conference	7
6.2 Preliminary Design Review	7
6.3 Final Design Review.....	8
6.4 Construction Monitoring.....	9

TABLE OF CONTENTS
(continued)

	<u>Page</u>
6.5 Resubmittal of Plans	9
7. CONSTRUCTION.....	9
7.1 Commencement of Construction	9
7.2 Work in Progress.....	10
7.3 Notice to Comply.....	10
7.4 Final Review	10
7.5 Insurance for Construction.....	10
8. CONSTRUCTION REGULATIONS.....	11
8.1 Debris and Trash Removal.....	11
8.2 Dust Control.....	11
8.3 Sanitary Facilities.....	11
8.4 Access, Traffic, Parking.....	11
8.5 Excavation Materials	12
8.6 Restoration or Repair of Other Property Damaged.....	12
8.7 Noise	12
8.8 Daily Operation.....	12
8.9 Non Waiver.....	12
8.10 Right of Waiver.....	12
8.11 Enforcement.....	13
8.12 Variances to Design Guidelines.....	13
9. Application Fees	13

1. **AUTHORITY**

The preparation and application of the Design Guidelines is accomplished under the authority of the Hilo Hillside Estates Declaration of Covenants, Conditions and Restrictions, dated _____, 20__, and filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. _____, as the same may be amended from time to time (the "**Declaration**"). Capitalized terms used herein but not defined shall have the same meanings as set for in the Declaration.

2. **PURPOSE; USAGE**

The Design Guidelines (the "**Guidelines**") for Hilo Hillside Estates (the "**Project**"), have been prepared to assist you in the development of a Dwelling and other Improvements within your Lot. The purpose of the Guidelines is to (a) insure the best and most appropriate development and improvement of each Lot; (b) protect the Owners of Lots against improper use and development of any other Lot which might depreciate the value of the Project as a whole; (c) preserve as far as practicable the natural beauty of each Lot and the Project as a whole; and (d) guard against the erection of structures which are poorly designed or proportioned, or structures built of improper or unsuitable materials.

The Guidelines shall apply to all construction, alteration, additions, grading, landscaping or removal of landscaping on any Lot at the Project. No structures or things shall be placed, erected, or installed upon the Lot, and no Improvements or other work shall take place within the Project, except in compliance with **Article V (Construction and Design Standards)** of the Declaration and the Guidelines; provided, however, that nothing in these Guidelines shall be construed as limiting Agricultural Uses as permitted under the State Land Use Law. Additionally, these Guidelines shall not apply to the activities of the Declarant and/or assignees of Declarant's interest under the Declaration, nor to activities of the Association during the **Class "B" Control Period**.

3. **AGRICULTURAL ZONING**

The Project is subject to various land use approvals, restrictions and conditions imposed by the County of Hawaii and the State of Hawaii, including without limitation, those restrictions set forth in Hawaii Revised Statutes Chapter 205 ("**State Land Use Law**"), and Hawaii County Code Chapter 25. Each Lot in the Hilo Hillside Estates ("**Project**") is within the State Land Use Agricultural District. Under the State Land Use Law any residences located within the Agricultural District must qualify as farm dwellings under the State Land Use Law. Farm dwellings include single-family dwellings located on and used in connection with a farm, or where agricultural activity provides income to the family occupying the dwelling. Nothing contained in the Declaration, the Design Guidelines, the Articles of Incorporation and Bylaws of the Hilo Hillside Estates Community Association, Inc., or any other rules or regulations shall prevent the use of a Lot for agricultural purposes. The County of Hawaii, as the enforcement and permitting agency of improvements built within the State Land Use Agricultural District, requires that an executed First Farm Dwelling Notice be submitted to the Planning Department with the Building Permit for the first dwelling developed on each Lot.

Prior to the commencement of any activity within the scope of these Guidelines, plans and/or specifications must be submitted to and approved by the Declarant or its designee, or upon the Declarant's delegation, the Design Review Committee as provided herein in Article 5, regarding Design Review Committee Organization (hereinafter collectively referred to herein as the "Reviewer"). The Reviewer may require the submission of additional information as may be reasonably necessary to fully evaluate any submission.

Review and approval of any Design Application is made on the basis of aesthetic considerations only. The Reviewer shall not bear any responsibility for insuring the structural integrity or soundness of approved construction or modifications, nor be responsible for ensuring compliance with building codes and other governmental requirements, nor the applicable codes or regulations of other entities holding authority over improvements within the Project. The Reviewer shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on, or modifications to, any Dwelling or Improvement.

In the event of any conflict between the standards and restrictions set forth herein and any law, code, or ordinance, the more restrictive provision shall control. In the event of any conflict between the standards and restrictions set forth herein and the Declaration or other document made or created by the Declarant and applicable to the Project, the most recent document shall control.

4. SITE AND LANDSCAPE GUIDELINES

4.1 General Considerations

(a) Design Improvements

All Improvements shall be depicted in plans submitted by the Owner to the Reviewer for approval. A complete set of plans and specifications must be approved prior to the commencement of construction of any Improvement or grading; provided, however, that no approval shall be required for Agricultural Uses. Incomplete plans shall be rejected and the Owner notified in a timely manner that such plans are incomplete. The design review process shall not commence until a complete set of plans has been submitted for review and approval.

The construction of additional Dwellings or Ohana Dwellings is expressly prohibited. The construction of a guest house or other ancillary buildings is allowed subject to compliance with all applicable requirements of the Zoning Code, and provided that all applicable governmental approvals have been obtained and the plans for such structures have been approved by the Reviewer and the DRC, as applicable. All structures such as garages, barns, stables, gazebos, etc., are to be designed as integral parts or extensions of the Dwelling in terms of architecture, materials, and colors even if physically separated.

(b) Permissible Improvements

Each Lot shall contain no more than one Dwelling, in compliance with the State Land Use Law. It is expected that the design of each Dwelling and related Improvements will be tailored to the unique features of each individual Lot. To that end, Dwellings shall be constructed only within the Building Envelope for such Lot. Each Dwelling or other

Improvements should be sited so that important views are protected and natural drainage is not altered; provided, however, that nothing herein shall be construed as protecting any views within the Project. In addition, Declarant and/or the Association may, from time to time, in their sole discretion, change the location, configuration, size and elevation of Improvements, trees, and landscaping located on any Common Area.

(c) Quality

All Dwellings or other structures shall be constructed with new materials. Premium quality timber, recovered from an existing structure, re-milled and treated, may be regarded as new material. All exterior surfaces of structures and all exterior colors (with the exception of glass windows) shall be of earth-tone colors and shall be reviewed and approved by the Reviewer. All Dwellings and other structures shall exhibit the highest quality workmanship.

4.2 Lot Areas

Each Lot shall consist of the following areas:

(a) The Building Envelope where Dwellings and all related Improvements may be constructed;

(b) The Natural Area, which is that portion of a Lot that lies outside the Building Envelope and is to remain in an essentially natural condition, or may be used for Agricultural Uses; and,

(c) The Agricultural Lot Easement, which is that area of each Lot reserved for Agricultural Uses and consisting of no less than fifty-one percent (51%) of the Lot.

4.3 Grading and Drainage

No Owner shall alter the grade or topography of any Lot in a manner that would materially increase or change the location or direction of the flow of drainage from the Lot to any adjoining Lot or adjacent property, or to any road.

All grading shall be conducted in a manner that does not create erosion or loss of sod and topsoil. All Lots that have been graded or altered shall be re-grassed or landscaped in accordance with approved plans, unless being utilized for Agricultural Uses. Irrigation and watering of graded and re-grassed areas is required to be performed shortly after grading operations to maintain dust control.

No grass or topsoil may be transported into the Project without Reviewer approval (to maintain uniformity and to prevent the intrusion of foreign matter such as termites, undesirable seeds and chemicals); provided, however, that nothing herein shall restrict the Agricultural Uses of the Lots.

4.4 Car Parking

Each Lot shall provide parking for vehicles either under the main roof or in a separate garage. All garages shall have a garage door.

4.5 Fencing

Fencing shall be new and shall complement the Dwelling and the Project. Chain link fences are prohibited.

4.6 Vacant Lots

Vacant Lots shall be maintained in a manner consistent with the Community-Wide Standard.

4.7 Exterior Lighting

All exterior lights shall be approved by the Reviewer prior to installation. All exterior lighting, including the light sources and fixture reflectants, shall be designed, placed and constructed so that no portion of the lighting rays unreasonably encroach upon adjacent Lots. Outdoor recreational lighting, and wall-washing lighting on buildings and landscaping are discouraged. Sub-level lighting for swimming pools is permitted if not viewed from any other Lot or road. Temporary holiday or party lighting is exempted. If driveway lighting is installed, it shall consist of low-wattage fixtures and shielded to shine downward. Exterior security flood lighting shall be allowed only if connected to motion, heat or similar type sensor, or if normally left off and turned on only in response to an immediate and temporary concern.

4.8 Setbacks

All Improvements shall comply with applicable minimum set back requirements as specified under the Zoning Code.

4.9 Minimum Square Footage

All Dwellings shall have a minimum of 1,200 square feet of living area, excluding parking garages, carports, lanais, patios, porches and the like.

4.10 Building Height

The maximum building height for all structures and improvements placed or constructed on each Lot shall be the maximum height allowable under the Zoning Code. Such maximum height for a structure shall be measured from the pad height to the highest point of the structure's roof but exclusive of the structure's chimney. No Improvements shall be placed or constructed upon any Lot in excess of the maximum building height established by the benchmark elevation point which is set at above sea level. No chimney shall extend more than four (4) feet above the highest point of the roof of the Dwelling.

4.11 Termite Treatment

Soil under all Improvements shall be treated or protected against termites as required by the Hawaii County Building Code. Construction material shall be treated or protected against termites as required by the Hawaii County Building Code.

4.12 Utilities

All power, telephone or other utility lines (wire or conduit) shall be installed pursuant to all applicable laws, codes, or ordinances. Connections to utilities shall be designed in accordance with the Design Guidelines and overall design standards for the Project. The piping for all structures shall be concealed underground or within walls.

4.13 Waste Water Disposal

Each Lot shall be serviced by an individual wastewater system ("IWS") approved by the State of Hawaii Department of Health prior to occupancy of the Lot. All IWS, other sewage disposal fixtures or facilities and plumbing fixtures shall be fully screened from the view of other Lots and Project roadways in a form approved by the Reviewer.

4.14 Solar Water Heater Installation

No solar water heater shall be installed except the approved model and type on file with the Reviewer. In the event a more efficient unit is warranted, then the new unit shall conform to the color (housing and glass) and not exceed the height and low profile, or have piping in excess of the approved model and type. No solar water heater shall be installed on the ground or on any roof that is visible from the roadways, drivecourts and parks. Scaled drawings showing the proposed installation and location of the solar water heater system shall be submitted to the Reviewer for approval before any installation commences.

4.15 Skylight Installation

No skylight shall be installed except the approved model and type on file with the Reviewer. In the event a more efficient unit is warranted, then the new unit shall conform to the color (housing and glass) and not exceed the height and low profile, or have piping in excess of the approved model and type. No skylight shall be installed on the ground or on any roof that is visible from the roadways, drivecourts and parks. Scaled drawings showing the proposed installation and location of any skylights shall be submitted to the Reviewer for approval before any installation commences.

5. DESIGN REVIEW COMMITTEE ORGANIZATION

Initially, during the Project's development, the Declarant or its designee shall have authority to review and approve all proposed activities within the scope of these Guidelines as provided under **Article V(Construction and Design Standards)** of the Declaration. In reviewing and acting upon any request for approval, the Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. The Declarant's rights in this regard shall continue so long as Declarant owns any portion of the Project or any real

property adjacent to the Project, unless earlier terminated in a written instrument executed and Recorded by the Declarant.

The Declarant may from time to time delegate all or a portion of its reviewing authority to a Design Review Committee ("DRC") as provided in **Article V (Construction and Design Standards)** of the Declaration. Upon delegation by Declarant or upon expiration or termination of Declarant's rights thereunder, the Association, acting through the DRC shall assume jurisdiction over architectural matters.

The DRC shall be organized as follows:

5.1 Design Review Committee Membership

The DRC shall consist of five (5) members. Each member shall hold office until such time as the member resigns, has been removed or has had a successor appointed. .

5.2 Appointment of Members

All members shall initially be appointed by the Declarant on behalf of the Association. At such time as the Declarant no longer owns any Lots or property within the Project, all members shall be appointed by the Board. Members shall serve staggered two (2) year terms. There is no limit to the number of consecutive terms that can be served by any member.

5.3 Function of the DRC

It will be the duty of the DRC to consider and act upon such proposals or plans from time to time submitted to it in accordance with the design review procedures established by the Guidelines; to amend the Guidelines as deemed appropriate with the approval of the Board; and to perform any duties assigned to it by the Declarant, or the Board as set forth in this document and the Declaration.

5.4 Meetings

The DRC will meet monthly, or as needed, to properly perform its duties. The DRC's action on matters will be by a majority vote. Any action required to be taken by the DRC may be taken without a meeting if a consent in writing, setting forth the action so taken, will be signed by all members of the DRC. The DRC will keep and maintain a record of all actions it takes.

5.5 Amendment of Design Guidelines

Upon termination of the Declarant's rights to amend the Guidelines, the DRC may, from time to time, with the approval of the Board, amend the Guidelines. Each Owner is responsible for obtaining from the DRC a copy of the most recently revised Guidelines.

5.6 Non-Liability

Neither the Board, the DRC, any member thereof, nor the Declarant, or their respective successors or assigns, shall be liable to the Association or to any Owner or other person for the damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, or specifications, or (c) the development, or manner of development of any Property within the Project. Every Owner or other person who submits plans to the DRC for approval agrees by submission of such plans and specifications, that he will not bring any action or suit against the DRC, any member, the Association, the Board, or the Declarant to recover damages. Approval by the DRC, any member, or the Declarant shall not be deemed to be a representation or warranty that the Owner's plans or specifications or the actual construction of a Dwelling or other Improvement comply with applicable governmental ordinances or regulations, including but not limited to the Zoning Code and local building codes, and it shall be the sole responsibility of the Owner or other person submitting plans to the DRC or performing any construction on a Lot.

6. DESIGN REVIEW PROCEDURE

The purpose of the design review process set forth in the Design Guidelines is to ensure that all Improvements within the Project conform to and implement the purpose and intent of the Declaration and the design concepts and development standards and guidelines set forth herein. A Design Application must be approved by the Reviewer prior to the construction of any Improvement (including staking, clearing, excavation, grading and other site work, exterior alterations of existing Improvements, or planting or removal of landscaping) on a Lot. The design review process shall take place in four (4) steps: (i) a Pre-Design Conference; (ii) a Preliminary Design Review; (iii) a Final Design Review; and (iv) a Construction Monitoring.

6.1 Pre-Design Conference

Prior to the submission of any formal materials for review, the Owner and/or Owner's consultant(s) (as used in this **Section 6 (Design Review Procedure)**, the "Applicant") shall request a preliminary conference with the Reviewer (the "Pre-Design Conference"). Within fourteen (14) working days of such request, the Reviewer shall hold the Pre-Design Conference, wherein the Applicant shall meet with the Reviewer in person or by teleconference to answer any questions the Applicant may have with respect to the Guidelines and Applicant's proposed construction.

6.2 Preliminary Design Review

Following the Pre-Design Conference, the Applicant shall submit preliminary Design Application materials no later than seven (7) working days prior to the next scheduled meeting of the Reviewer. The preliminary Design Application materials shall include, without limitation, the following:

- (a) Site plans indicating Lot elevation and building height.

- (b) Floor plans indicating floor area.
- (c) Elevations and sections sufficient to demonstrate the design intent and impact (three dimensional illustrations are desirable, but not required).
- (d) Structural design.
- (e) Schedule of materials, finishes and colors, including roof, walls, trim, etc.
- (f) Location of all outbuildings, lanais, terraces, trellis structures, appurtenances and other Improvements.

The Reviewer shall provide written comments to the Applicant within twelve (12) working days of submission of the preliminary Design Application materials, subject, however, to the Declarant's veto right pursuant to **Section 5.4(b)** of the Declaration. The comments of the Reviewer on the preliminary Design Application shall be advisory only, and shall not be binding upon either the Applicant or the Reviewer.

A second review meeting may be necessary to review corrected and/or new materials. Corrected materials will be provided to the Reviewer a minimum of five (5) working days prior to the next regularly scheduled meeting of the Reviewer. If a second review meeting is necessary to review corrected and/or new materials, the Applicant shall submit such corrected and/or new materials five (5) working days prior to the next regularly scheduled meeting of the Reviewer.

The Reviewer shall either approve or disapprove the Applicant's preliminary Design Application within twelve (12) working days from the submission of the Applicant's last submitted Design Application materials, subject, however, to the Declarant's veto right pursuant to **Section 5.4(b)** of the Declaration. If approved, the Reviewer shall set a time for the next scheduled meeting of the Reviewer and the Applicant.

6.3 Final Design Review

Applicant shall submit final Design Application materials within one (1) year of preliminary design approval, and within seven (7) working days prior to the next scheduled meeting with the Reviewer. The final Design Application shall provide all information necessary to reflect the design of the proposed building(s), landscape or other features requiring the approval of the Reviewer. The final Design Application materials shall generally conform to the Design Application approved at the Preliminary Design Review.

Upon receipt of the required documents, the Reviewer shall notify the Applicant of the scheduled meeting date to review the final Design Application materials. The Reviewer will review and comment on the final Design Application at the meeting, allow time for discussion with the Applicant, and subsequently provide the Applicant with approval or conclusive recommendations in writing for refinements to the final Design Application within twelve (12) working days, subject, however, to the Declarant's veto right pursuant to **Section 5.4(b)** of the Declaration.

If a second review meeting is deemed necessary by the Reviewer, the Applicant shall submit whatever additional materials requested by the Reviewer no later than five (5) working days prior to the next scheduled meeting between Reviewer and Applicant.

The Reviewer shall approve or disapprove the final Design Application within twelve (12) working days of the last meeting between the Reviewer and the Applicant, subject, however, to the Declarant's veto right pursuant to **Section 5.4(b)** of the Declaration. The Reviewer's disapproval shall be in writing and shall provide a written statement of the basis for such disapproval.

The Reviewer will make a reasonable effort to comply with the design review schedule. However, the Reviewer shall not be liable for any delays that are caused by circumstances beyond their control.

6.4 Construction Monitoring

The Applicant shall apply for all applicable building permits and/or other approvals from the County of Hawaii after receiving approval of its final Design Application from the Reviewer. Any adjustments to Reviewer-approved plans required by the County of Hawaii must be resubmitted to the Reviewer for review and approval prior to the commencement of construction.

Any subsequent construction or other changes that differ from the approved final Design Application materials must be submitted in writing to the Reviewer for review and approval.

The Reviewer shall issue a Notice of Completion within seven (7) working days of observation.

6.5 Resubmittal of Plans

In the event that the final Design Application is not approved by the Reviewer, the Applicant shall follow the same procedures for any resubmission as for original submittals. An additional design review fee must accompany each resubmission as required by the Reviewer.

7. CONSTRUCTION

7.1 Commencement of Construction

Upon receipt of final approval from the Reviewer, the Owner may proceed with the commencement of construction. If the Owner fails to commence construction within one (1) year from the date of final design approval, the approval shall be deemed withdrawn and it shall be necessary for the Owner to resubmit for approval before commencing any activities; provided, however, that an extension may be allowed by the Reviewer upon written application by the Owner.

The Owner shall complete all Improvements within sixty (60) months of commencing construction. A maximum of two (2) 12-month time extensions may be allowed by the Reviewer upon written application by the Owner.

7.2 Work in Progress

The Reviewer may enter upon Lots for which construction has been approved and inspect all work in progress and give notice to the Owner of non-compliance. Absence of such inspection and notification during the construction period does not constitute either approval of the Reviewer of work in progress or compliance with the Guidelines or the Declarations.

7.3 Notice to Comply

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

7.4 Final Review

Upon completion of construction, the Owner shall give written notice to the Reviewer. The Reviewer will make a final observation of the property within seven (7) business days of the notification. Within seven (7) business days of the final observation, the Reviewer will either issue in writing (i) a Notice of Completion; or (ii) a notice of non-compliance stating that construction has not been performed in substantial compliance with the approved final plans and listing any items of non-compliance the Owner will be required to remedy.

If the Owner fails to correct all items of non-compliance within sixty (60) days following the date of the mailing of the notification of non-compliance, the Reviewer shall notify the Association of such failure, and the Association, at its option, shall have the right to remedy the non-compliance or remove the non-conforming Improvement, and the Owner shall reimburse the Association for all expenses incurred in connection therewith, including all attorney's fees.

If the Reviewer does not notify the Owner of any items of non-compliance within sixty (60) days after receipt of a complete notice from the Owner, the Improvements shall be deemed to be in accordance with the Guidelines and the Declaration.

7.5 Insurance for Construction

Prior to the commencement of construction of any Improvements, the Owner and/or the Owner's general contractor, shall secure and maintain adequate public liability, builder's risk insurance, and performance and payment bonds with face amounts equal to at least one hundred percent (100%) of the cost of construction, and the Owner shall be named as an additional insured on such policies. A copy of the policy or certificate thereof shall be delivered to the Declarant and the Reviewer.

8. CONSTRUCTION REGULATIONS

The following Construction Regulations shall be enforced during the construction of all Improvements, and all Owners, contractors and their respective agents, employees and subcontractors shall be bound by these regulations as well as all applicable governmental regulations. All Owners will be responsible for the conduct and behavior of their agents, representatives, contractors, and subcontractors with respect to the construction of Improvements.

8.1 Debris and Trash Removal

Trash and debris shall be removed from each construction site to a dumping site not located within the Project. Owners and contractors are prohibited from dumping, burying or burning trash anywhere on a Lot or within the Project. Lightweight material, packaging, and other items shall be covered or weighted down to prevent wind from blowing such materials off the construction site.

Concrete trucks shall wash out spill pans before entering the Project and before leaving the construction site.

Dirt, mud, debris or concrete resulting from any construction activity shall be promptly removed from roads and driveways or other portions of the Project.

Any clean-up costs incurred by the Association in enforcing these requirements will be billed to and shall be paid by the Owner.

8.2 Dust Control

The Owner will be responsible for clean-up of any construction generated dirt and debris, including cleaning of dwellings downwind from the construction site.

8.3 Sanitary Facilities

Each Owner and contractor shall provide adequate sanitary facilities for their construction workers. These temporary facilities shall be maintained regularly to prevent obnoxious odors or unsightly appearance.

8.4 Access, Traffic, Parking

Construction crews shall not park on, or otherwise use, common roads or shoulders, or Lots non currently under construction by such crews. Private and construction vehicles and machinery shall be parked only in such areas and in such a manner that is not damaging to existing vegetation on, or adjacent to, the Lot. The Reviewer may institute parking restrictions in certain areas in connection with the construction of Improvements.

All construction personnel must observe speed limits and other traffic controls.

All heavy tracked equipment shall be hauled to the construction site on trailers, and not "walked" across pavement.

Any damage or ruts to road, shoulders, or infrastructure shall be repaired to the satisfaction of the Association and billed to the Owner.

8.5 Excavation Materials

Excess excavation materials shall be hauled away from the Lot.

8.6 Restoration or Repair of Other Property Damaged

Damage and scarring to other Lots or Improvements shall be repaired and/or restored promptly at the expense of the person causing the damage or by the Owner of the Lot for whose benefit the work which caused the damage was undertaken.

8.7 Noise

The Owner and contractor shall make every effort to keep noise to a minimum.

8.8 Daily Operation

Daily working hours for each construction site shall be 30 minutes after sunrise and 30 minutes after sunset Monday through Saturday. No work is permitted on Sundays and major holidays, including Thanksgiving Day, Christmas Day and New Years Day.

8.9 Non Waiver

The approval by the Reviewer of any plans, drawings, or specifications, or other submittal for any work done or proposed, or in connection with any other matter requiring the approval of the Reviewer under the Guidelines or the Declaration, including a waiver by the Reviewer, shall not be deemed to constitute precedent, or the waiver of any right to withhold approval as to any similar plan, drawing, specification, or matter whenever subsequently or additionally submitted for approval. It is understood that the person reviewing submissions will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Guidelines may vary accordingly. Approval of submissions or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver on the rights to withhold approval as to any similar submissions, plans, or other matters subsequently or additionally submitted for approval.

8.10 Right of Waiver

The Reviewer reserves the right to waive or vary any of the procedures or standards set forth herein at its discretion, for good cause shown.

8.11 Enforcement

The Association shall have the right to remove any Improvement constructed, reconstructed, refinished, altered or maintained in violation hereof and the Owner shall reimburse the Association for all expenses incurred in connection therewith, including all attorneys' fees.

8.12 Variances to Design Guidelines

The Reviewer may authorize variances from compliance with any of its guidelines, and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to the Guidelines; or (c) estopp the Reviewer from denying a variance in other circumstances. Inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

9. APPLICATION FEES

In order to defray the expense of reviewing plans, monitoring construction and related data, and to compensate consulting architects and other professionals, the DRC shall assess an application fee which shall be payable by the Owner upon the submittal of the Owner's application for a Pre-Design Conference. The application fee shall be established on annual basis by the DRC. Owners should obtain the current application fee from the DRC.

Fees for resubmittals shall be established by the DRC on a case by case basis.