

Black Mountain Ranches Board of Director's Guidelines for the Association's Bylaws and Declaration of Covenants, Restrictions, Easements, Charges and Liens

Last Updated: February 21, 2021

Overview:

The Black Mountain Ranches Owners Association ("Association") is governed by the following original documents from 1983 that are provided to each lot owner on our website (and perhaps by the title company or your realtor) at the time of purchase:

1. Bylaws of Black Mountain Ranches Owners Association ("Bylaws")
2. Declaration of Covenants, Restrictions, Easements, Charges and Liens for Black Mountain Ranches ("Covenants")

In 2013 Colorado passed an "HOA Reform Package" (House Bill 13-1276, House Bill 13-1277, House Bill 13-1134, and Senate Bill 183) This encouraged adoption of a set of "Resolutions" by the board for the efficient operation of the association. A set of Resolutions was adopted by the Black Mountain Ranches Owners Association Board of Directors (the "Board") under President Bill Fox in 2016. These resolutions are included on the website.

The Board is charged with applying these three documents in the management of the Association as needed. Unfortunately, the Covenants and Bylaws contain wording in some cases that is not specific, or is open to interpretation, which can lead to inconsistent application by the Board and/or the Architectural Control Committee (ACC), and/or disagreement on their intent, particularly as Board and ACC members change over time.

In this context, the Board has prepared these **Guidelines** to provide additional description, specificity, or clarification to all Association members and to assist the Board and ACC in the consistent and uniform application of the Bylaws and Covenants.

These **Guidelines** will be reviewed on an annual basis and updated as necessary to meet the demands of a changing culture, technology, and events that may affect the quality of life for current and future Association members. The Board recognizes the need to allow property owners as much freedom as possible without compromising property values and intangible assets of fellow property owners.

These **Guidelines** do not change or modify the Bylaws, Covenants, or Resolutions and do not require any official update to those three governing documents. BMR owners are reminded that all land use and construction is subject to the Park County Land Use Regulations and Building Codes applicable to R-20 (Residential Estate) zoning and subject to the established penalties for violations. Where the Covenants, Bylaws, and Guidelines establish requirements which are more stringent than County regulations, owners must adhere to the more stringent requirements.

Additionally, each BMR owner is responsible for complying with the terms of all easements and land leases and for avoiding unauthorized trespassing on other lots

Guidelines for the Black Mountain Ranches - Bylaws:

Guidelines are included for specific Articles of the Bylaws as described below:

Article I Name and Location

The principal office of the corporation should be the address of the current Board President.

Currently: John Simpson
 6556 County Road 5
 P.O. Box 1629
 Fairplay, CO 80440

Article IV Meeting of Members

Section 1 Annual Meeting

Each year the Annual Meeting should be held on the third Saturday in August.

Article VII Powers and Duties of the Board of Directors

Section 1 (a) ...to adopt and publish rules and regulations...

Examples include the following guidelines that have been developed and included on the BMR website:

Renter/Guest Guidelines

Fishing Guidelines

Fencing Guidelines

Architectural Submittal Requirements Checklist

Road Maintenance Protocol

Resolution of the Black Mountain Ranches Owners Association Regarding the Efficient Operation of the Association

Section 1 (f) ...oversee maintenance of the private roads....

The Board has developed a **Road Maintenance Protocol** that is included on the BMR website

Section 2 (c) (1) ...annual assessments....

Clarification that the Board has the right to establish the amount of the annual assessment or dues, and that this action does not need a vote or approval of the membership of the Association. It is recommended that the reasoning behind any change of the annual dues be discussed, as a courtesy, with the membership in attendance at the next annual meeting in August. It is also recommended that a written summary of the decision process leading to a change in annual dues be included with the minutes of the

meeting that such a decision was made and distributed to the members of the Association.

Section 2 (2) & (3) ...sending notices....

Clarification that as authorized in Article VI, Section 1 (e), the Board has hired the Firm of KC and Associates to complete certain management tasks, and these tasks are detailed in **RESOLUTION OF THE BLACK MOUNTAIN RANCHES OWNERS ASSOCIATION REGARDING THE EFFICIENT OPERATION OF THE ASSOCIATION** (copy included on the Association website and provided to each member of the Association).

Article IX Architectural Control

Section 1 Review of Plans

This section of the Bylaws lists the need for plan review and approval by the Architectural Control Committee (“ACC”) and provides a lengthy list of items for which plans should be submitted for review. This section also states that these items should be determined to be in “harmony of external design and location in relation to surrounding structures and topography...”

To clarify and simplify the plan submittal and review process, the Board has determined that the following items must have plans submitted for review and approval by the ACC, and the key review criteria for each is listed:

- Any residential structure that is greater than 600 square feet of floor area, or barn/large shed/other structure that is greater than 400 square feet in floor area and/or exceeds 14 feet in height (see submittal and review criteria below):
 - Architectural or construction drawings including South, North, East, and West facing elevations and any special construction details;
 - Building height as measured on the uphill side of the structure;
 - Maximum building height is that of a typical two-story structure, as measured on the uphill side of the structure. This allows for a walkout basement to not count against the total height of the structure if the structure is constructed on a hillside.
 - Site plan with proposed building location noted, including setbacks measured and noted on the plans from all property lines, and driveway culvert information;
 - Structures must have a minimum setback of at least 100 feet from property lines (note that this is greater than the setback required by Park County for this R-20 land use zone).

- The site plan should also indicate the presence of a culvert to be placed beneath the site driveway where the driveway intersects the access roadway (either a County Road or a private BMR road) in accordance with the covenants.
- Proposed building siding color;
 - Siding color shall be compatible with the natural environment, herein defined as shades of brown, tan, rust, gray or green that can be found naturally in the Colorado landscape. The intent is to minimize the visual conspicuity of the structure. Materials shall have a non-glare finish.
- Proposed building roofing color;
 - Roofing color shall be compatible with the natural environment, herein defined as shades of brown, tan, rust, gray, or green that can be found naturally in the Colorado landscape. The intent is to minimize the visual conspicuity of the structure. Materials shall have a non-glare finish.
- Any fencing or wall that is to be constructed within Black Mountain Ranches. The intent of this requirement is to allow the ACC the opportunity to recommend to the property owner that fencing should be designed and constructed to be sensitive to wildlife movement through Black Mountain Ranches. The ACC will refer the property owner to wildlife-sensitive fencing design information, including the Fencing Guidelines document which is contained on the Association website.

The Board has determined that in addition to the requirements established in Park County Land Use Regulations, the following structures or activities are prohibited on Black Mountain Ranches:

- Wind generators that are taller than 30 feet or that emit sound that can be heard by the human ear on any adjacent properties within Black Mountain Ranches
- Radio towers or antennas that are taller than 30 feet
- Any commercial enterprise that would generate more than 12 one-way automobile trips accessing the site in a 24-hour period (note that a vehicle that arrives and departs in a 24-hour period is counted as 2 trips).
- Any commercial development or rental of campsites for permanent or occasional use.

The Board has determined that some of the items included in Section 1 that call for ACC review may not need to be reviewed in all cases and has developed the following list of exemptions that only need to be reviewed if there is a specific concern raised on a case by case basis. If the ACC has such a concern, the property owner should be notified as

early as possible in the plan review process. Otherwise, items typically exempt from ACC review include:

- Landscaping that is more than 75 feet from the perimeter of the property;
- An external wall within the property boundaries that is more than 75 feet from the perimeter of the property and is less than or equal to 6 feet in height;
- Small shed, barn or other small structure that is less than 400 square feet of floor area, is less than 14 feet in height, is more than 100 feet from the perimeter of the property, and is to be constructed with siding and roofing colors consistent with the natural environment (herein defined as shades of brown, tan, rust, gray or green that can be found naturally in the Colorado landscape);
- Awning or canopy on a structure that is more than 100 feet from the perimeter of the property so long as its color is consistent with the natural environment (as defined in these Guidelines).

Section 2 Architectural Control Committee

This section indicates that the ACC shall consist of three persons. Historically the ACC duties have been performed by the Board, with occasional participation by other Association members who expressed an interest to be a part of the ACC. The Board hereby recommends that Board members continue to serve as ACC members, with additional participation on the ACC by up to three additional interested members of the Association. The three additional ACC members must be elected by a two-thirds vote of the members at an annual meeting or special meeting of the members. ACC members shall serve a term of 3 years. There shall be no limit on the number of terms an ACC member may serve.

Guidelines for the Black Mountain Ranches - Covenants:

Guidelines are included for specific numbered sections of the Covenants as described below:

2. Dwellings

The maximum structure height is specified as “two stories in height above the ground”. The Board interpretation is that structure height should be measured from the ground on the uphill side of the structure. This is consistent with the interpretation of Article IX, Section 1 of the Bylaws as noted above and repeated here:

- Maximum building height is that of a typical two-story structure, as measured on the uphill side of the structure. This allows for a walkout basement to not count against the total height of the structure if the structure is constructed on a hillside.

3. Building Location

Minimum building setbacks from property lines is defined as 100 feet, which is greater than the Park County minimum setback. In cases where steep topography may limit acceptable building

locations, the Board may consider a variance to the 100-foot setback requirement, to a reduced minimum setback of between 50 feet and 100 feet, subject to discussion and agreement with the nearest adjacent property owner if the adjacent property owner is a member of the Association. In no case, will a minimum setback of less than 50 feet be approved.

4. Building Appearance

Regarding structural color schemes, see above recommended interpretation of Bylaws Article IX, Section 1.

6. Nuisances

This item provides a vague description of what may be considered a nuisance that is prohibited on property within the Association. A more specific listing of nuisances and nuisance activities that are prohibited include:

- Unsafe discharge of a firearm; the Association recognizes that owners have the right to shoot and hunt on their property. As such property owners must adhere to both state and local requirements as it applies to discharging a firearm. If any owner witnesses an unsafe act, they should contact the individual involved or contact the appropriate law enforcement agency, i.e., Sheriff, State Patrol, or Colorado Division of Parks and Wildlife.
- Operation of recreational vehicles onto neighboring lots.
- Accumulation of discarded agricultural or household equipment, waste and/or materials in a location that can be seen from the perimeter of the lot; slash piles are permitted but must be disposed of in a timely manner by either hauling them away or burning in accordance with local fire district rules.
- Any commercial development or rental of campsites for permanent or occasional use.
- The presence of a road vehicle (licensed or unlicensed), for a period longer than 90 days, that is in disrepair, unusable, abandoned, or inhabited by rodents. *Note, this interpretation is specifically not intended to prohibit the presence and use of campers or recreational vehicles that are maintained in useable and habitable conditions and utilized regularly throughout the year for camping by the property owner, provided such campers or recreational vehicles are located a minimum of 100 feet from the property line (unless the owner can demonstrate that a 100-foot setback is not feasible) and such use is conducted in a safe, clean, environmentally acceptable, manner, and all waste is disposed of properly.*
- The use of shipping containers or portable storage containers which are not in compliance with Park County Land Use Regulations, Article V, Section 5-713 and Ordinance No. 20-02 (effective March 16, 2020). Those regulations require in part:
 - Building Permits are required;
 - Visual mitigation is required so that the container blends with the surroundings;
 - Storage containers may be used for storage purposes only;
 - Only one storage container shall be permitted per parcel;
 - Storage containers are not permitted on vacant parcels;
 - Storage containers must be kept in good repair.

BMR covenants require the containers to be a minimum of 100 feet from the property line.

8. Sewage:

This covenant is interpreted to specifically prohibit “out houses” or “pit toilets” that directly discharge human waste into or onto the ground. It also is interpreted to prohibit any unsanitary camping activities that generate human sewage that is discharged into or onto the ground.

9. Fishing:

Please refer to the BMR Fishing Guidelines approved by the Board 2-8-2019 posted on the BMR website.

11. Fences

As described in the Fencing Guidelines document on the Association’s website, and in the discussion above regarding Bylaws Article IX, Section 1, BMR landowners are encouraged not to install any perimeter fencing unless they are planning to enclose allowable livestock or if free ranging livestock is problematic to the landowner. In those cases, landowners are encouraged to use wildlife-sensitive fencing whenever possible.

Existing fences between adjacent BMR lots, or between any BMR lot and an outside entity (including the Bureau of Land Management and the US Forest Service) should be maintained in good repair and converted to wildlife-sensitive design if possible. Fencing deemed to be obsolete, dilapidated, or dangerous to humans or wildlife may be removed if all impacted adjacent landowners are in agreement.

12. Signs

The Board has interpreted that the posting of “No Trespassing” signs on the perimeter of a lot and the redwood Welcome signs on CR5 and CR22 are exempt from the restriction in this Covenant. Furthermore, the Board suggests that “No Trespassing” type signs be standardized within the Association, using the design currently deployed that references Black Mountain Ranches, No Hunting, No Fishing, No Trespassing. To this end, the Board should procure a supply of these standardized signs for purchase by individual lot owners. The intent is to create a consistent and unified message to the public that Black Mountain Ranches property is private and trespassing for any reason is not allowed.

Signs posted (by or at the direction of the Board) on BMR roadway gates are also exempt from the restriction in this Covenant. These signs on the gates may include “Keep Gates Closed”, “Private Road”, and signs indicating the addresses of the lots that are accessible behind each gate.

16. Architectural Control:

See discussion above under Bylaws Article IX.

17. Recreational Vehicles and Campers:

The Board has determined that this Covenant is not to discourage camping on Black Mountain Ranches lots by their owners or guests, so long as:

- a) Such camping is in accordance with Park County Land Use Regulations, Article 5, Section 5-712
- b) "Guests" are not paying to camp on BMR as part of a commercial operation – see prohibition of commercial camping or RV use above).

Nor is it intended to prohibit the presence of licensed RVs or campers that are the property of the lot owner on a lot for extended periods, provided that they are kept in serviceable condition, whether there is a permanent residential structure on the lot or not. It is the Board's interpretation that recreational vehicles and campers may be allowed on a property for periods longer than one year so long as they are:

- a) licensed
- b) stored in a useable condition
- c) in the case that there is not a permanent residential structure, they are regularly used for camping by the lot owner, AND any sewage related to the camping activity is hauled off the property and disposed of properly (no direct dumping or discharge of human sewage onto or into the ground is allowed without a septic system approved by Park County).
- d) located a minimum of 100 feet from the property line.