



RUMBLING BALD  
ON LAKE LURE

*An Introduction to Rumbling Bald on Lake Lure*

The Association is dedicated to creating a superior living environment and to protecting your investment for generations to come through the preservation of its natural character.

Great care has been taken in the planning, design, and construction of structures to ensure aesthetic harmony throughout the community. By requiring quality construction and attention to detail throughout the community, natural tranquility and overall property values will be enhanced and preserved.

The construction Rules and Regulations of the Association have been developed to help property owners, homebuilders, architects, contractors, residents, and realtors understand and become active participants in the process of assuring long-term community quality. The goal of the guidelines is to establish standards ensuring a community of quality homes within a natural environment.

The ACC is committed to working with you in protecting your investment and property values. It can be contacted at:

Architectural Control Committee (ACC)  
Rumbling Bald on Lake Lure  
112 Mountains Blvd.  
Lake Lure, NC 28746

Phone: 828/694-3010 (ACC Message Line)

We look forward to hearing from you!

NOTE: Association ACC Rules & Regulations are subject to change from time to time. Guidelines in effect at the time plans are submitted will govern.

The Architectural Control Committee (ACC) of the Rumbling Bald POA wishes to make the presentation of construction plans as efficient as possible for property owners, contractors, and the Committee.

The procedure for submitting plans for approval by the ACC is:

- ❖ Contractor/Property Owner emails either the exterior modification application or new home construction package along with the COMPLETE plans and other required items to [LGeary@rumblingbald.com](mailto:LGeary@rumblingbald.com).
- ❖ All applicable deposits/fees are due with the submission of the application request.
- ❖ All applications other than new home builds, exterior remodels/additions, or variance requests will be reviewed by the Community Manager. The approval permit will be issued if applicable and a copy provided to the owner.
- ❖ If full Committee approval is required, it will be placed on the agenda for the next meeting. Applications for full Committee review are due no later than 4:00 p.m. on the Thursday prior to the meeting. Owners/Contractors are welcome to attend this meeting. New home builds will receive an approval permit and a building permit. The building permit is to be displayed at the building site.
- ❖ Once the modification is complete, owners must contact the Community Manager for inspection. For new home builds, the Community Manager will use the inspection checklist to schedule inspections. A Certificate of Completion will be issued and deposit returned, if applicable.
- ❖ If the application is denied, a letter will be sent via email and mail to the owner.

It is imperative that plot plans include:

Section 302.2.3 Setbacks: Locations of septic tank and field lines or the location of the existing sanitary lines; all items which are planned to be added on the lot or roadside berm (such as fences, walls, drives, sidewalks, light posts, driveway headwalls, etc.) [See Sample Plot Plan included with ACC Rules and Regulations booklet],

Section 302.2.4 Tree Plan and Landscaping Plan

If you have any questions, please contact the ACC Message Line at 828/694-3010 or your ACC Area Representative.



**RUMBLING BALD**  
ON LAKE LURE

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**APPLICABLE**  
**COVENANTS AND RESTRICTIONS**

**Article I – Definitions**

(I) “Lot” shall be the numbered lots in the numbered blocks as shown on any recorded subdivision plat of The Properties.

(J) “Commercial Lot” shall mean and refer to any lot so designated upon any recorded subdivision plat of The Properties, or as may be so designated by this Declaration, or any Supplemental Declaration.

(K) “Residential Lot” shall mean and refer to any lot so designated upon any recorded subdivision plat of The Properties, or as may be so designated by this Declaration, or any Supplemental Declaration.

(L) “Living Unit” shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family.

(M) “Single Family Detached” shall mean and refer to any building intended for use by a single family and not attached to any other building.

(N) “Single Family Attached” shall mean and refer to any building containing one or more Living Units attached but each Living Unit located on a separate Parcel of Land.

(O) “Multifamily Structure” shall mean and refer to any building containing two or more Living Units located on a single Parcel of Land.

(P) “A Parcel of Land” shall be less than a lot, a single lot, more than a lot, or several lots, or a plot of land described by a metes and bounds description.

(Q) “Contractor” shall mean anyone other than a member being hired/paid by a member to perform any type of work or services.

**Amendment, June, 2003 – Architecture Controls**

The following Declaration of Covenants and Restrictions’ Article XII, Article XIII, Article XIV, and Paragraphs 11 and 12 of the Protective Covenants, as respectively amended, are hereby amended by deleting them in their entirety and replacing them with the following:

Section 1. Architectural Control Committee. All improvements constructed or placed on any Lot must first have the written approval of the Architectural Control Committee (“ACC”). Such approval shall be granted only after written application has been made to the ACC in the manner and form prescribed by the Board of Directors. The application, to be accompanied by plans, specifications, and any applicable supporting documents, shall show the location of all improvements, if any, existing upon said Lot, the location of the improvement proposed to be constructed, the color and composition of all exterior materials to be used, proposed landscaping, and any other information which the ACC may require, including but not limited to soil, engineering and geologic reports and recommendations.

Section 2. ACC Membership. The ACC shall be composed of members appointed by the Board. ACC members shall be subject to removal by the Board and any vacancies from time to time existing shall be filled by appointment of the Board. Actions by the ACC shall need a majority

approval of the members in attendance at meetings where actions are taken. A quorum of members shall be required at all meetings.

Section 3. Grounds for Disapproval. The ACC may disapprove any application:

- a) If such application does not comply with this Declaration or the approved Architectural Rules and Regulations;
- b) Because of the reasonable dissatisfaction of the ACC with grading plans, location of the proposed improvements on a Lot, finished ground elevation, color scheme, finish, design proportions, architecture, height of foundation, shape, height or style of the proposed improvement, the materials used therein, the kind, pitch or type of roof proposed to be placed thereon; or
- c) If in the judgment of a majority of the ACC reasonably exercised, the proposed improvement will be inharmonious with the Community, or with the improvements erected on other Lots.

Section 4. Rules and Regulations. The Board of Directors shall, from time to time, adopt written rules and regulations of general application governing the ACC's procedures which shall include, among other things, provisions for the form and content of applications, required number of copies of plans and specifications, provisions for notice of approval or disapproval, including a reasonable time period for approval by reason of failure to disapprove; etc.

Section 5. Variances. The ACC may grant reasonable variances or adjustments from the provisions in this Declaration where literal application thereof results in unnecessary hardship and if the granting thereof will not be materially detrimental or injurious to Owners of other Lots.

Section 6. Certification of Compliance. At any time prior to completion of construction of an improvement, the ACC may require a certification, upon such form as it shall furnish, from the contractor, Owner, or a licensed surveyor that such improvement does not violate any setback, ordinance or statute, nor encroach upon any easement or right-of-way of record.

Section 7. Administrative Fees. As a means of defraying its expenses, the ACC may institute and require a filing fee to accompany the submission of plans and specifications with the Board of Directors approval. No additional fee shall be required for re-submissions.

Section 8. Liability. Notwithstanding the approval by the ACC of plans and specifications or its inspection of the work in progress, neither it, the Property Owners Association (POA), nor any person acting on behalf of them shall be responsible in any way for any defects in any plans or specifications or other material submitted to the ACC, nor for any defects in any work done pursuant thereto. Each person submitting such plans or specifications shall be, and shall agree to be, solely responsible for the sufficiency thereof and the adequacy of improvements constructed pursuant thereto. The POA shall not be liable for damages caused by erosion, washing, or other acts of nature.

Section 9. Appeals. Any applicant shall have the right to appeal to the Board from any decision of the ACC within fourteen (14) days after entry of such decision.

Section 10. Restriction on Construction of Model Homes. Model or exhibit homes shall be built only with the prior written permission of the ACC.

## **Exhibit A, Protective Covenants**

1. Application. These Protective Covenants shall apply to all of the Properties as provided in the Declaration. They shall also apply to additions to The Properties unless the Developer shall specifically exempt from these Protective Covenants such additions or a portion thereof in the Supplemental Declaration by which the Developer subjects such additions to this Declaration.

2. Amendment, Rescission or Additions. Developer may amend, rescind or add to the Protective Covenants from time to time, but unless the Lots are specifically exempted from the Protective Covenants by the Declaration or a Supplemental Declaration at the time the Lots are subjected to the plan of the Declaration, such Amendment, Rescission or Additions shall not make the Protective Covenants as to those Lots zoned as Residential less restrictive than as provided in the Federal Housing Administration's then current edition of "Minimum Property Standard for Single Living Units".

3. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or Parcel of Land of The Properties, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or Parcel of Land. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or Parcel of Land.

4. Conflict with Declaration. The provisions of the Declaration shall prevail in all respects as to these Protective Covenants, in the event of conflict between these Protective Covenants and the Declaration.

## **2004 Judgment**

Except for emergency situations as defined below, prior to the commencement of the erection, construction or alteration of any structure, including the alteration of any color scheme on a building, (collectively "Structural Work") or the removal of any tree greater than three (3) inches in caliber that is located more than ten (10) feet from the exterior line of any building ("Tree Cutting"), on property controlled or managed by Foxrun or Fairways ("Timeshare Development"), Foxrun or Fairways shall notify a representative of the Architectural Control Committee (ACC) of the POA of such project at least two (2) calendar days prior to its intended commencement and shall obtain from such representative consent for the work. This step is referred to as the "informal" ACC review method. If consent is denied under the "informal" ACC review method for Structural Work, then the requesting party may file a written appeal with the ACC for a hearing before the full ACC panel. With the "informal" ACC review, consent is conclusively deemed given if no action is taken by the ACC representative within two (2) calendar days of notice of the requested work. If after appealing to the full ACC panel, the ACC disapproves of the Structural Work, or conditions the approval of the Structural Work, or fails to render a decision within thirty (30) days of an appeal to the full ACC panel, the requesting party may appeal such action in writing to a panel consisting of three (3) persons who shall decide the merits of the denied and/or conditioned request ("Arbitration Panel"). For denials of or conditions imposed upon Tree Cutting under the "informal" ACC review method, the requesting party may appeal in writing directly to the Arbitration Panel. The Arbitration panel shall consist of one person selected by the ACC, one person selected by the requesting party (either Foxrun or Fairways), and the third to be selected from the two members

previously selected by the ACC and the requesting party. If the two appointed individuals are unable to reach an accord on the third arbitrator, then the Superior Court Judge presiding in the 29<sup>th</sup> Judicial District, Rutherford County, if available, shall choose the third member of the panel and if said Judge is not available, then the Trial Court Administrator shall make the selection. In the event the appointment is made by the Judge or the Trial Court Administrator, then the third member shall be selected from the list of available and qualified mediators registered with the Trial Court Administration office for Rutherford County. If at all practicable, a hearing before the Arbitration Panel shall be conducted within twenty (20) days of a written request to the ACC for Arbitration. An Arbitration Panel shall render a decision approving the ACC's decision, reversing the ACC's decision or modifying the ACC's decision within five (5) days of the hearing. Each side shall bear their own costs. To the extent practicable, the American Rules of Arbitration shall govern the conduct of any hearing before the Arbitration Panel. In rendering a decision, the Arbitration Panel consider all the facts and circumstances surrounding the request for the project and shall not be bound to adhere to any rule or regulation promulgated by the ACC, the POA, or the requesting party. In rendering a decision, the Arbitration Panel shall be principally guided by common sense and fairness to both sides. The Arbitration Panel's ruling shall be binding on all parties. The above referenced process, or any portion thereof, may be waived in writing by all applicable parties. Notwithstanding the above, Foxrun or Fairways may, without the prior consent of the ACC, take any action to prevent or correct an emergency situation that poses an imminent threat to life or property in the Foxrun or Fairways Timeshare Development ("Emergency Action"). If at all practicable, the party taking the Emergency Action shall notify a representative of the ACC the same day that said Emergency Action is taken. If the ACC disagrees with the Emergency Action, then the ACC has the right to file an appeal with the party taking such action requesting a hearing before the Arbitration Panel as provided above. If the Arbitration Panel agrees with the merits of the ACC's appeal, the Arbitration Panel can require the party responsible for the Emergency Action to implement, at its expense, a corrective action plan as defined by said panel. In all instances involving landscaping work that changes the existing conditions within the Timeshare Developments of Foxrun or Fairways ("Landscaping Work"), a landscaping committee made up of persons appointed by the Foxrun or Fairways Board of Directors, where applicable for each time share community, shall make decisions concerning such landscaping changes. Foxrun or Fairways, where applicable, shall give a representative of the ACC at least two (2) calendar days notice of any proposed landscaping changes prior to the intended commencement of such work. If the ACC disagrees with the Landscaping Work, then the ACC has the right to file an appeal with the party taking such action requesting a hearing before the Arbitration Panel as provided above.

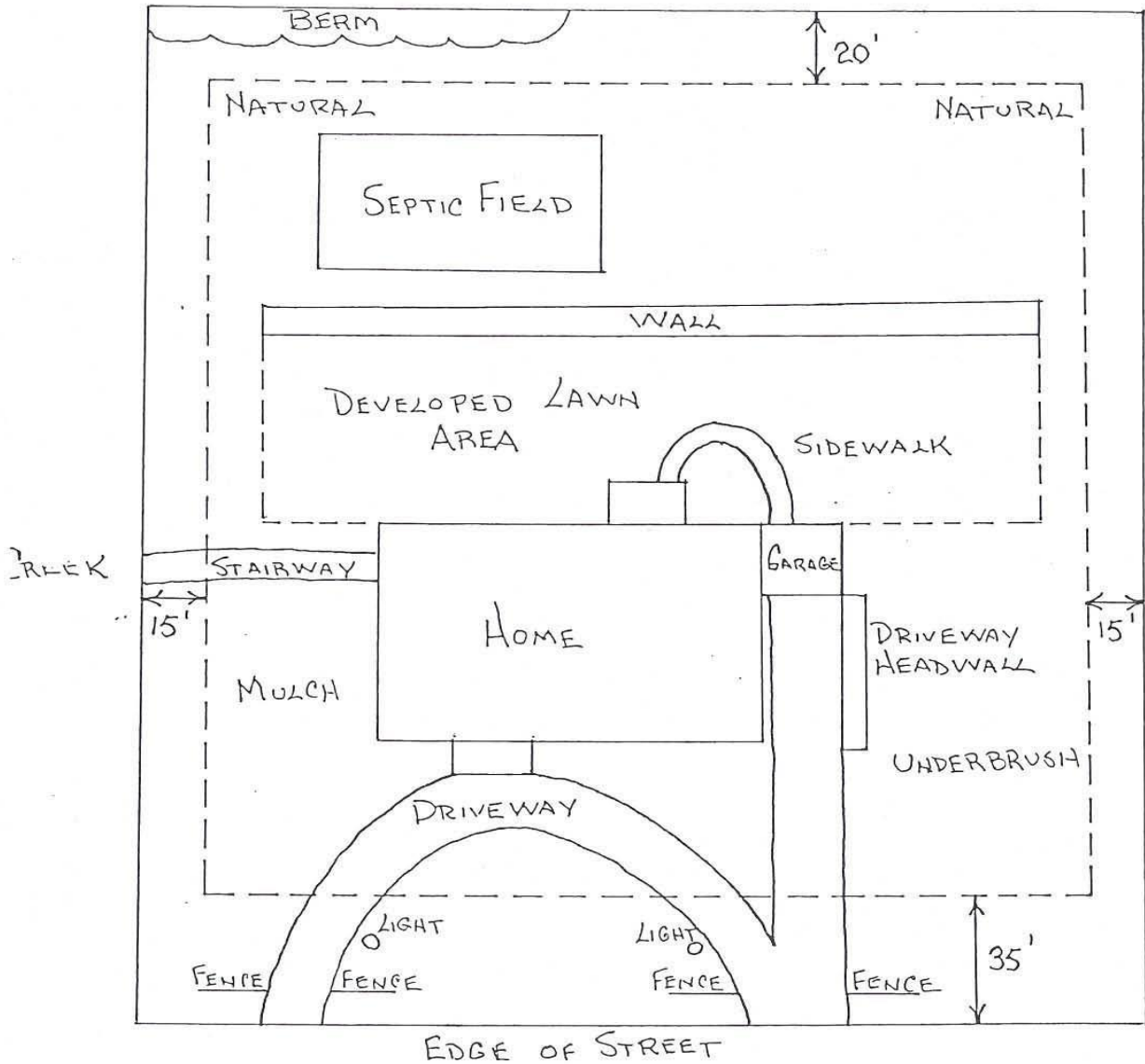
SUBDIVISION \_\_\_\_\_

OWNER \_\_\_\_\_

LOT # \_\_\_\_\_

BUDGET \_\_\_\_\_

NOTE: ALL STRUCTURES MUST BE WITHIN SETBACK LINES



ACC  
SAMPLE PLOT PLAN

\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
NAME  
\_\_\_\_\_



## ARTICLE I

### THE ARCHITECTURAL CONTROL COMMITTEE

**SECTION 100** The Declaration of Covenants and Restrictions for the Association requires the Architectural Control Committee (ACC), a committee appointed by the Board of Directors of the Property Owner's Association (POA), to assure compliance with the Rules and Regulations for the protection and welfare of all property owners. The ACC acts in the interest of all property owners in approving or disapproving all plans, specifications, details, and color schemes for buildings and other structures and improvements to Property.

Nothing in the Declaration of Covenants and Restrictions or Rules and Regulations preempts Town, County, State, or Federal Law. The more stringent regulations apply.

**SECTION 101** MEMBERSHIP The Architectural Control Committee (ACC) consists of up to ten (10) voting property owner members; and a designee of the Chief Executive; an ACC-appointed Advisor (serving at the pleasure of the ACC); and a Liaison Representative from the POA Board of Directors. Considerations regarding conflict of interest precludes membership for builders, contractors, developers, realtors, including their spouse or domestic partner, and others with an income generating motive in the Association.

**101.1** Property owner members are recommended to the POA Board of Directors by the Chairperson of the ACC. Regular member appointments shall be for three (3) years and shall be renewable for one subsequent three (3) year period at the discretion of the Board of Directors.

**SECTION 102** COMMITTEE OFFICERS A Chairperson and a Vice-Chairperson shall be elected annually from the voting members of the Committee. The election shall be held during the first meeting in July. The Chief Executive will provide an Administrative Secretary, who is not a member of the ACC, to perform committee administrative duties.

**SECTION 103** MEETINGS Regular meetings of the ACC will be scheduled twice each month. Meetings may be canceled or added at the discretion of the Chairperson.

**SECTION 104** QUORUM A quorum consists of fifty percent (50%) of the voting members, either in person or by telephone..

**SECTION 105** PROJECT FOLLOW-UP Two Area Representatives representing the Committee will monitor each project approved by the Committee. The Area Representatives may call upon other Committee members for assistance; and, if the Area Representatives are not available, any member may substitute.

**SECTION 106** CONSULTATION When necessary, and with consent of the Board, professional consultation may be sought to discuss major construction projects before the Committee votes on approval.

## ARTICLE II

### HARMONY WITH THE SURROUNDINGS

**SECTION 200** Structures must be harmonious with the environment. Exterior colors must be subordinate in tone to the surrounding landscape. A sample chip of each exterior color must accompany the plans submitted to the ACC. Inappropriate external colors, including white, will not be approved. The proposed color must have a Light Reflective Value (LRV) of 50 or less for the body of the home and a LRV of 63 or less for the trim. The ACC retains the right to deny a color based on the need to maintain an aesthetic harmony in the Association.

**200.1** Primary roof pitch must be a minimum of 8/12. Wood shingles (cedar, etc.) on roofs will not be approved for either new or replacement construction because of fire safety considerations.

**200.2** For exterior walls, stone, board siding, exterior plywood with battens, or other synthetic materials, provided that such give the appearance and texture of natural wood, may be approved. In any case, the final structure must be of a color and texture in tone with the surrounding landscape. A brick or stone wall with a color of earth tone may be approved.

For exterior walls, corrugated metal or shiny metallic and baked glaze finishes will not be approved.

For exterior walls, thin imitation stone, thin imitation brick or asphalt shingles will not be approved.

**200.3** Particular attention will be given to street elevations to ensure a pleasing appearance (examples: shutters, window boxes, door details, lanterns, etc.)

**200.4** All homes must be attached to a permanent foundation. Homes may not have a chassis, axles, or wheels. The title to homes must pass by way of a real property deed and not by transfer of a manufacturer's certificate of origin.

Mobile homes or structures having the appearance of mobile homes or trailers are not permitted. Mobile homes and trailers are defined as structures designed to be moved or transported.

Manufactured homes, including double wide and prefabricated types, will not be approved.

Modular homes will be considered if the following requirements are satisfied: the structure does not present a "boxy" and/or "packaged" appearance; primary roof pitch is a

minimum of 8/12; ceiling height is a minimum of eight (8) feet; all siding is field installed to eliminate joint lines; and construction satisfies applicable North Carolina building codes. Trees may be cut only for the home, driveway, and septic field.

Pre-cut homes will be considered if all Federal and North Carolina building code standards are satisfied.

All site-built homes will be considered.

**200.5** Construction utilizing pre-assembled roof or floor trusses and panels may be approved. This type of construction must be accomplished without removal or major damage to existing trees or roads.

**200.6** No structure of a temporary character shall be used on any Lot at any time as a residence, either temporarily or permanently.

**200.7** Under no circumstances will the construction of a garage, storage shed, or other outbuilding be permitted before home construction is approved and completed. Any such planned buildings should be part of the original submission. If there is a need for additional structures after completion of the dwelling, a new set of drawings and the required fees must be submitted. Under no circumstances will the construction of a driveway be permitted before home construction is approved.

**200.8** The ACC shall decide all questions relative to the location of Commercial structures upon Lots where such structures are permitted.

**200.9** Outbuildings or accessory buildings permitted upon Lots or Parcels of Land upon which there is constructed a Commercial building, Single Family Attached structure, or multifamily structure shall be entirely within the discretion of the ACC.

**200.10** Trailers of any kind (including house trailers, boat trailers and/or boats, motorcycle trailers, etc.) and transportable living accommodations will not be allowed to be parked on the property or streets. The Association has provided a suitable parking area, based on availability and payment of applicable fees.

**200.11** Lights installed on a pole and high intensity lights must be approved and must be shown on the plot plan submission. The installation of such lights after a home has been completed requires a Permit from the ACC. Lights may not be intrusive on neighboring properties.

**200.12** Utilities (cable television, telephone, etc.) must be installed underground. All new and replacement fuel tanks (propane, oil, etc.) must be buried. Tanks previously existing above ground shall be screened by either landscaping or appropriate construction.

**200.13**            Zoning - The notes upon recorded subdivision plats shall control as to use of the Lots reflected thereon.

As to Lots designated as Residential, the notes upon the recorded subdivision plat shall control regarding the residential structure types (Single Family Detached, Single Family Attached, and Multifamily structure) which shall be permitted, provided that Single Family Detached is a permitted use on any such property regardless of designation.

On Single Family Detached Lots, no residential building shall be erected, altered, placed or permitted to remain other than one (1) detached Single Family dwelling not to exceed thirty-five (35) feet in height and private garages for the occupant's vehicles and other outbuildings incidental to the residential use of the Lot. No Residential Lot shall be used except for residential purposes. Non-profit, civic, religious, educational, and community purposes such as, but not limited to, churches, schools, fire and police stations, community buildings, libraries, or parks shall require ACC approval.

Structures upon Lots designated as Commercial or Industrial shall be controlled entirely as to kind, shape, height, material, and other features by the ACC. The ACC may permit residential use of a Lot restricted to Commercial or Industrial with the consent of the Owner of the Lot.

**200.14**            Re-subdivision - No Lot shall be subdivided without a recommendation from the ACC to the POA Board of Directors.

### **ARTICLE III**

#### **EXTERIOR REMODELING, NEW HOME CONSTRUCTION AND LANDSCAPING**

**SECTION 300**            No building, fence, wall, satellite dish, antenna system, or other structure shall be erected or maintained upon the property nor shall exterior additions or modification of existing structures be commenced before approval and a permit is obtained from the ACC. A satellite dish or antenna system must be unobtrusive, may not be located between the home and street, and must be within the setback lines. Prior to installation an ACC Area Representative must give approval on the location of a satellite dish or antenna system. Recreational and playground equipment are permitted with concurrence in location by the ACC.

Prior to the commencement of the erection, construction, or alteration of any structure, including the alteration of any color scheme on a building, (collectively "Structural Work") or the removal of any tree greater than three (3) inches in caliber that is located more than twenty (20) feet from the exterior of any building ("Tree Cutting"), approval shall be requested from a representative of the ACC at least two (2) calendar days prior to the intended commencement of work. The representative of the ACC must respond within two (2) calendar days of the request.

Landscaping Work – A representative of the ACC shall be given notice of any proposed landscaping changes two (2) calendar days prior to the intended commencement of work.

Landscaping requiring land disturbance, i.e., waterfalls, retaining walls, construction of structures, (gazebos, steps, etc.) require a Work Permit and possibly a Security Deposit and Impact Fee, depending on the cost of the project.

Emergency Action – Action to prevent or correct an emergency situation that poses an imminent threat to life or property may be taken without the prior consent of the ACC. If at all predictable, the party taking the emergency action shall notify a representative of the ACC on the same day as the action is taken.

**SECTION 301**      QUALIFICATIONS OF CONTRACTOR The homeowner is responsible for the conduct of all contractors and subcontractors involved in a project.

**301.1**            In some cases, a State of North Carolina Contractor License, Electrical License, Plumbing License, and Heating-Air Conditioning License may be required for a project. It is the homeowner's responsibility to determine if a License may be required for a project. It is the homeowner's responsibility to determine if such a license is required by state or local law. In cases where the cost of the project is over \$30,000, a State of North Carolina Contractor License is required, unless exempt by state or local law. It is the homeowner's responsibility to ensure the contractor constructs the property consistent with any and all State, local, ACC, or other municipality Building Codes, ordinance, rules and regulations. Issuance of a building permit to any contractor may be refused for just cause. The estimated cost of building a structure shall not exceed the maximum dollar value specified on the contractor's license. Issuance of a Building Permit to any contractor may be refused for just cause, which is defined by Black's law Dictionary as outside legal cause, which must be based on reasonable grounds, and there must be fair and honest reason, regulated by good faith. The estimated cost of building a structure shall not exceed the maximum dollar value specified on the contractor's license.

**301.2**            Homeowner Acting As General Contractor - A homeowner may be permitted to act as his own General Contractor. In such case, the owner shall furnish credit information and proof of financial ability sufficient to complete the building within the specified time requirements.

**301.3**            The Contractor will obey the Rules and Regulations. Violation of the Rules and Regulations by the contractor may result in probation and/or denial of future permits.

**SECTION 302**      APPLICATION FOR AN ACC PERMIT On all plans, a Title Block containing the owner's name, the contractor, the subdivision (block and lot), the draftsman, and the date drawn is required. All plans submitted shall be original, unmarked blueprints drawn to scale. All additions and/or deletions shall be made to the original drawing (with the revision date noted and initialed by the ACC Area Representative assigned to the new home construction). Approval of all additions and/or deletions is required prior to proceeding with the work.

**302.1**            CONDOMINIUM/TOWNHOUSE EXTERIOR MODIFICATION Approval of the project must be obtained from the appropriate Condominium/Townhouse Association Board prior to submitting a request to the ACC.

**302.2** HOME CONSTRUCTION: The responsible Area Representatives will visit the site prior to discussion of the project by the Committee.

**THE FOLLOWING DOCUMENTS MUST BE SUBMITTED FOR EXTERIOR REMODELING PROJECTS COSTING \$30,000 OR MORE AND NEW HOME CONSTRUCTION:**

**302.2.1** Elevation and Floor Plan A complete floor plan showing all dimensions is required. Front, both sides, and rear elevations demonstrating the existing grade line and the proposed finished grade line are required. Roof pitches shall be specified on the plans. The square footage of heated and non-heated areas must be provided on the plans.

All Single Family homes constructed after August 1, 2011 shall have a fully enclosed heated living area of not less than 1,800 square feet, of which not less than 900 square feet of heated living area being on the main floor.

**302.2.** Color Scheme and Materials Paint, siding, brick or stone, and roofing color samples are required. The proposed color must have a Light Reflective Value (LRV) of 50 or less for the body of the home and a LRV of 63 or less for the trim. The ACC retains the right to deny a color based on the need to maintain an aesthetic harmony in the Association.

**302.2.3** Plot Plan A plot plan showing the exterior perimeter of the foundation, the roof overhang, and the decks in relation to the Lot lines is required. The Plot Plan must be prepared by a professional land surveyor, professional engineer, or builder; and subsequent modifications must be initialed and dated.

Minimum Set-Back Requirements:

- Thirty-five (35) feet from the edge of all streets
- Fifteen (15) feet from each side lot line
- Twenty (20) feet from the rear lot line
- Twenty (20) feet from a lake, golf course, or park

The furthest projection of a structure (i.e., roof overhang, deck, porch) must be within the setback lines. Exterior stairs encroaching upon setback lines must be approved.

All front, side, and rear setback lines stated by the Lake Lure Subdivision Ordinance and the ACC Rules and Regulations must be observed. Set-back requirements may be modified by the ACC in the best interest of the property owner and the community. Also, refer to “Minimum Dimensional Requirements for Lake Lure” in the zoning code. The more restrictive requirements shall apply.

A Single Family Attached structure shall not be required to have a side yard and a common or party wall may be constructed upon the dividing lines between Lots so that the wall

may be partially upon one Lot and partially upon the other or said common wall may be entirely upon one of the two lots involved.

The location of the HVAC equipment, septic tank and field lines or the location of the existing sanitary sewer line is required.

All items which are planned to be added on the lot or roadside berm (such as fences, walls, drives, sidewalks, light posts, driveway headwalls, etc.) must be shown.

**302.2.4**      Tree Plan and Landscaping Plan In conjunction with new home construction and prior to granting a Certificate of Completion (COC), the property owner shall clear the lot of dead trees, fallen debris, and dead underbrush to the satisfaction of the ACC Area Representatives.

Trees are one of the Association's primary assets. No trees, alive or dead, over three inches (3") in diameter as measured one (1) foot above ground and more than twenty (20) feet from a dwelling shall be removed (other than the site of the dwelling, septic system, and driveway) without ACC approval. Cutting of **SIGNIFICANT TREES** is prohibited [see Lake Lure Zoning Regulations, Land Clearing and Grading, Appendix A. A copy of the Zoning Regulations can be obtained by contacting the Town of Lake Lure at (828) 625-9983 or by visiting their website at [www.townoflakelure.com](http://www.townoflakelure.com)]. The ACC shall have the authority to require replanting of trees removed without approval [see Lake Lure Tree Management Handbook, Chapter 10 – Native plant recommendations for Lake Lure and the Hickory Nut Gorge to be used in required replanting and planting standards].

Trees, alive or dead, located within twenty (20) feet from the dwelling (including decks, porches, and overhangs) and five (5) feet of driveways and sidewalks may be removed with prior ACC approval.

The ACC will approve and may require the removal of trees which are diseased and/or pose a threat to persons or property. The ACC will consider requests for selective pruning or selective tree removal. Property owners are required to obtain a WORK PERMIT from an ACC Area Representative if a contractor will be engaged in clearing a lot of dead trees, fallen debris, and underbrush.

Underbrush is defined as any growth less than three-inches (3") in diameter. No tree topping will be allowed.

The following are the four (4) types of landscaping to be designated on the plan:

**Clear Cut**

DEFINITION – Removal of all trees and brush

SPECIFICATIONS – Only trees within twenty (20) feet of the structure (including decks, porches, and overhangs) and five (5) feet of driveways and sidewalks may be removed. The clear cut line shall be identified clearly on the plot plan and on the Lot and shall be inspected prior to clearing.

### **Developed Lawn Area**

DEFINITION – Clearing of an area followed by seeding with grass.

SPECIFICATIONS – In areas shown as developed lawn seeded with grass, a minimum of four good quality trees [measuring at least three (3) inches in diameter one (1) foot above ground level] per 1600 square feet shall be preserved. The trees may be scattered or left in a group.

### **Underbrush**

DEFINITION - Only underbrush shall be removed, and all trees shall remain.

SPECIFICATIONS – Only trees and brush less than three (3) inches in diameter may be removed. Tree limbs more than ten (10) feet above ground level may not be removed without authorization from the ACC.

### **Natural**

DEFINITION – The area is to be left in its natural state

SPECIFICATIONS - All areas outside of the clearable areas shall be marked on the Plot Plan as **PROTECTED FOREST AREAS**. Protective boundaries shall be shown on the Plot Plan lying along the boundaries of all protected forest areas and surrounding any individual protected trees, including all root protection zones. Protective boundaries shall also be shown along boundaries where areas marked for tree thinning or removal abut protected forest areas, unless physical characteristics of the area render additional protections unnecessary. Such measures shall be installed prior to any land clearing, land disturbance, or development activity and shall be maintained until all such activity is complete. All workers in the area shall be clearly informed that trees and forest areas so marked are to be protected from cutting, girdling, any damage by construction equipment, and any disruptions of their root protection zones including trenching, dumping of excavated soil, spilling of toxic materials, vehicle parking or drive-over, the storage of equipment or materials, and addition of any impervious material. Areas designated as Forest Area/Natural on the landscaping plan are not to be disturbed in any way except for removal of dead trees, fallen debris, and dead underbrush. Care must be taken to follow the tree and landscaping plan exactly as approved and to protect as many trees as possible during all phases of construction. If fill is to be placed above the natural root system of existing trees, the areas must be indicated on the plans as “Clear Cut”, with a reason given for the fill. Utility lines and septic systems may require the removal of additional trees as the work is being done – but this clearing shall not be done with the original clearing and shall be held to an absolute minimum. It is recommended that the power line, telephone line, and television cable use the same clearing as the driveway if possible.



Sight Distance at Intersections - No fence, wall, hedge or shrub which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner property within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines (or, in the case of a rounded property corner, from the intersection of the street property lines extended). The same sight line limitations shall apply within ten (10) feet of the intersection of street property lines with driveways and alleys. Tree foliage lines must be maintained at a sufficient height to prevent the obstruction of sight lines.

**302.2.5**      Insurance and Licenses

Builder's Risk Insurance

Worker's Compensation Insurance

General Liability Insurance -The contractor must have minimum coverage of \$1,000,000, which must include blasting, if necessary

**302.2.6**      Financial Capability (only one (1) item is required)

Completion Bond

Executed home loan commitment from a recognized lending institution

Letter from a bank or other financial institution stating the estimated cost of the project and that the applicant has or can obtain the funds necessary to complete the project

Other proof

**302.2.7**      Zoning and Building Permits

Zoning and Lake Use Permits are issued by the Town of Lake Lure and Building Permits are issued by the Rutherford County Building Department. The ACC Permit must be obtained before applying for a Zoning Permit and a Building Permit. All Permits must be posted on the construction site.

Septic System – Permits are issued by the Rutherford-Polk-McDowell District Health Department.

Water Line Tap-In – Permits are issued by CWS Systems, Inc.; and the work is done by CWS Systems, Inc.

Sanitary Sewer Tap-In - Permits are issued by the Town of Lake Lure. Property owners are required to use an existing sanitary sewer system if adjacent to the property.

**302.2.8**      New Home Construction and Exterior Remodeling Application Forms – All required forms and paperwork must be completed in ink and signed by the owners and contractors.

All of the documents for New Home Construction and Exterior Remodels must be submitted in one complete package to [LGeary@RumblingBald.com](mailto:LGeary@RumblingBald.com) or the *Architectural Control Committee, 112 Mountains Blvd., LakeLure, NC, 28746*. Requests for appearance on a meeting Agenda must be made by submitting a COMPLETE package no later than 4:00 p.m. on the Thursday prior to a scheduled meeting.

**302.2.9** If an approved project is not started within six (6) months after ACC approval, the approval is null and void and the total application must be resubmitted.

**302.2.10** Preliminary Approval - Preliminary consideration may be requested prior to satisfying all of the requirements. The opinion rendered by the ACC will NOT constitute approval.

### **SECTION 303**      DEPOSITS/FEES

**303.1**      Impact Fee and Security Deposit – A non-refundable Impact Fee (payable to the POA) is required for each home building permit. A refundable Security Deposit (payable to the ACC) is required and will be refunded to the property owner following completion of the project, final inspection, and approval. Failure to comply with the Rules and Regulations will result in assessments against your Security Deposit. The Impact Fee will be held by the POA and earmarked for maintaining the infrastructure. The Security Deposit will be held in an interest bearing escrow account, with all interest accrued in this account being paid to the POA.

The fee schedule will be reviewed and updated annually by the POA Board of Directors.

**303.2**      Exterior Remodeling – For exterior remodeling projects, the Impact Fee will be 1% of the total cost of projection exceeding \$10,000, with a maximum Impact Fee not to exceed the new home construction Impact Fee. For exterior remodeling projects, the Security Deposit will be 2% of the total cost of projection exceeding \$5,000, with a maximum Security Deposit not to exceed the new home construction Security Deposit. Upon satisfactory completion of the project, the Security Deposit will be returned.

The ACC distinguishes between remodeling and maintenance. Security Deposits and Impact Fees are not required for maintenance.

### **SECTION 304**      CONSTRUCTION SITE MAINTENANCE

**304.1**      A driveway with a minimum width of ten (10) feet must be constructed of concrete, asphalt, gravel, or any other surface approved by the ACC. The driveway must be graveled prior to beginning construction. Property owners are encouraged to utilize concrete or asphalt, not gravel on their driveway. Should gravel be utilized on the driveway it is the property owner's responsibility to keep the gravel in the drive and clean up any gravel that gets on the private roads of the Association.

**304.2** The Association does not contain an area for the disposal of trees, stumps, or construction debris. Cut trees, stumps, dirt, and blasted rock must not be stored, even temporarily, on the roadway; and the material should not be loaded onto trucks parked in the roadway if the road is paved. Roadway culverts and ditches must not be blocked. No appreciable amount of mud or dirt may be tracked onto paved roads, and the removal of same shall be at the expense of the contractor.

**304.3** No construction sheds will be allowed on or adjacent to a construction site. A trailer may be utilized for the temporary storage of building materials and/or equipment during each phase of construction, but the trailer must be removed when that phase of the work has been completed.

**304.4.1** The Contractor shall have the following present on the Lot at the time of beginning construction:

a) One temporary toilet facility equivalent to a “Johnny on the Spot” and placed at a location least offensive to people in adjoining houses, golf courses, or lakes. It will remain in place until such time as the toilet facilities in the dwelling are operable.

b) A barrel or trash receptacle for papers, cans, and small trash. Littering of the job site and adjacent properties with the builder’s trash, empty bottles and cans, paper wrappers, etc. will not be tolerated. The construction site must be kept as clean and neat as possible at all times. All materials shall appear neat and orderly from both the street and adjoining homes. At the end of each working day, a foreman or superintendent shall assure that all debris has been picked up and that all materials have been stacked in a neat manner.

c) An adequate container for the placement of large trash and excess building material. The general contractor will assure that his workers and those of his sub-contractors make use of the container.

**304.5** Building materials are not to be stored on roadways, the edge of roadways, or adjacent Lots.

**304.6** Violations will be documented and will be considered serious offenses justifying disciplinary action and/or assessments against the Security Deposit.

**304.7** No open burning shall take place without first notifying the Association Security and the Fairfield Mountains Volunteer Fire Department or Bills Creek Volunteer Fire Department. A Burn Permit is required for all burning. Failure to comply with the requirement for a Burn Permit will result in a fine, and the fine shall be deducted from the Security Deposit. Under no circumstances shall any fire be left unattended, and hot coals must be extinguished completely before leaving the site. Additional fines may be assessed for damage caused by an uncontrolled fire.

**304.8** All building trash and construction materials must be removed before the Final Inspection and approval and return of the Security Deposit.

## **SECTION 305**      MIMIMUM REQUIREMENTS DURING CONSTRUCTION

**305.1**      Construction must allow continuous traffic flow. Road damage shall be repaired before a Certificate of Completion is issued by the ACC.

**305.2**      The guidelines, regulations, and specifications contained in the North Carolina Building Code, Electrical Code, Plumbing Code, and Heating-Air Conditioning Code shall constitute minimum guidelines required for all construction.

**305.3**      Construction work will be allowed Monday through Saturday between 7:00 a.m. and 5:00 p.m. or sundown, whichever comes later. Contractors, subcontractors, and employees shall not be at the construction site at night. Construction personnel shall take the most direct route to the job site.

**305.4**      Silt Control – The Contractor shall prevent silt and/or dirt from being washed from the construction site into lakes, roadside ditches or drainage ditches, or onto roads, golf courses, or adjacent property.

Silt run-off must be contained within and limited to the construction site. Silt control must be in place prior to beginning excavation. As a minimum, a hay bale dam is required in the ditch line of all job sites, on all lot lines bordering a lake, and on all lot lines bordering a golf course if the lot slopes down to the golf course.

Dirt or silt washed from the construction site shall be removed and either returned to the site or taken to a dumpsite outside of the community before the end of each day, weather permitting. If it is not removed within this timeframe, the Association will cause this area to be cleaned to its satisfaction, and the Security Deposit will be used to offset the expense. All silt protection must be maintained until construction is complete and grass is well established (three (3) inches in height). All properties within the Town of Lake Lure and the Association boundaries must comply with the Town's Sedimentation Ordinance.

**305.5**      Provision shall be made to drain surface water away from all sides of the structure. Water shall not be channeled or discharged onto another Lot and must be channeled into roadway ditches or well-defined natural draws or ditches. Overhangs, gutters, downspouts with splash blocks, and underground drains are recommended. Any piped extension of a downspout must be buried.

**305.6**      If blasting of rock in a ditch line is required, a professional blaster must do the blasting, and the rock must be removed. The invert of the ditch must be low enough to carry all water. The roadway ditch line between the lot and the shoulder of the road is the responsibility of the homeowner, who shall apply topsoil and seeding. Any other work requires approval. The homeowner is responsible for mowing and maintaining the ditch line, and neither the Developer nor the POA assumes any responsibility.

**305.7** Driveway and sidewalk culverts shall be of corrugated metal or pre-stressed concrete pipe buried at least twelve (12) inches below ground unless otherwise approved. Additionally, a 1" or greater plastic or metal conduit must be installed in the utility easement under new driveways.

**305.8** All exposed foundation walls, whether poured concrete or prefabricated walls must be tinted, plastered or painted an approved color. Exposed foundation walls constructed out of concrete block must be stuccoed or plastered an approved color.

Retaining walls constructed out of man made materials must be tinted, plastered or painted an approved color. Retaining walls constructed out of natural materials, or have a natural appearance, will be allowed to stay natural.

## **SECTION 306**      TIME FOR COMPLETION OF STRUCTURES

**306.1** Commercial structures, Single Family Detached structures, Single Family Attached structures, and Multifamily structures shall be completed within the time frame established by the ACC.

Single Family Detached structures shall be completed according to the building plans submitted by the owner and approved by the ACC within twelve (12) months following the start of construction, unless specified otherwise in the original presentation and approved by the ACC.

A Single Family Detached spec house (one built on a speculative basis, without an order) can omit items such as major appliances, floor coverings, countertops, etc. All items being omitted must be identified in the original presentation and approved by the ACC.

A Single Family Detached structure can be approved by the ACC, for the owner to complete a portion of the interior. The items being completed by the owner must be identified in the original presentation and approved by the ACC. The exterior of all structures, along with the landscaping must be completed within twelve (12) months following the start of construction.

At or before the completion of home construction, the property is to be cleaned and landscaped in a manner acceptable to the ACC. The lawn work is to be completed within the one (1) year construction period, unless the period ends in the winter, in which case all yard work must be completed by June 30th.

**306.2** The **Start Date** shall be the date on which site preparation begins. Prior to beginning site preparation, a survey shall be performed; the property corner pins shall be in place; and the locations of the house, septic field, and driveway shall be flagged. The appropriate ACC Area Representatives shall be notified that the site is ready for inspection forty-eight (48) hours in advance of beginning site preparation.

Homeowners shall be reminded in writing of the **Completion Date** ninety (90) days before termination of the twelve (12) month period allowed for construction.

Homeowners requesting additional time for construction beyond the Completion Date may be granted one extension.

Homeowners, in unusual circumstances, may request an additional extension. Failure to complete the project on or before termination of the extension period(s) will result in a **Hearing** conducted by the ACC in accordance with the North Carolina Planned Community Act at the next regularly scheduled meeting of the ACC.

**306.3** In the event of non-compliance or should construction activity cease for ninety (90) consecutive days, the POA shall have the right to hire a contractor and/or contractors to perform the work and purchase the necessary materials. The Owner shall be billed for the amount expended plus 12% for administration. In the event the Owner does not pay, the POA shall have the right to file a lien against the property or proceed in law or equity to sell the property. All money received over and above charges and court costs shall be paid to the Owner.

**SECTION 307**     INSPECTIONS     The ACC will inspect construction projects from time to time. The purpose of such inspections is to assure compliance with the ACC Rules and Regulations. The ACC Area Representatives will maintain a dated checklist which will be included in the homeowner's file.

The homeowner must not rely on ACC inspections to assure quality work from his contractor. The ACC assumes absolutely no responsibility for the work provided by contractors.

**307.1**     It is the responsibility of the contractor to notify the ACC at least one (1) working day prior to any of the required inspections. Failure to comply will result in a written notification of the Violation; and after two (2) notifications, the contractor will be required to meet with the full ACC for the purpose of explaining the non-compliance. The ACC will decide if disciplinary action is to be imposed.

**307.2**     First Inspection – The clear cut lines for the house site, septic field, and driveway must be identified clearly on the lot prior to the removal of trees and must be consistent with the plans approved by the ACC. The stakes defining the driveway, garage, home, and septic field must be joined by colored tape.

**307.3**     Second Inspection - The silt curtain and property corner pins will be examined to assure that silt will not be washed onto adjoining properties.

**307.4**     Third Inspection – The frames for the footers will be examined prior to being poured. All dimensions to the lot lines will be checked; and if setback requirements are not being met, adjustments will be required and a revised plot plan must be submitted. After the foundation has

been poured the ACC may request a Foundation Survey before work can continue. This could be requested to ensure that the foundation was constructed in the location shown on the Plot Plan. If a Foundation Survey is required by any other entity a copy must be provided to the ACC.

- 307.5**            Unscheduled Inspections – Periodically, other site inspections will assure that:
- trash and scrap building materials are being cleaned up;
  - silt curtains are in place and secure;
  - construction is proceeding in accordance with the approved plans; and
  - the Rules and Regulations are being observed.

**307.6**            Final Inspection – The ACC will assure that the construction project has been completed in accordance with the Rules and Regulations and will issue a Certificate of Completion to the property owner.

The Certificate of Occupancy (CO) issued by the County and the Certificate of Compliance (COC) issued by the ACC are separate, distinct, and unrelated certifications. The Certificate of Occupancy certifies that a structure is habitable. The Certificate of Completion certifies that a project approved by the ACC has been completed.

**307.7**            The ACC maintains a Contractor File. The file contains a list of projects completed by the contractor: owner’s name, address, and contact information; property location; Start Date and Finish Date of the project; and the responsible Area Representatives, with contact information. Additionally, the file contains correspondence regarding the performance of the contractor, Violation Notices, and summary comments concerning the project by the responsible Area Representative(s).

## **SECTION 308**        EXTERIOR MAINTENANCE

**308.1**            In the event the Owner of a Living Unit shall fail to properly provide for exterior maintenance as to buildings and/or grounds, the POA may, but shall not be obligated to, provide exterior maintenance as follows: paint, repair, replace, and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements.

**308.2**            The cost of such exterior maintenance shall be assessed against the Lot or Living Unit upon which such maintenance is performed and shall be added to and become a part of the annual assessment or charge to which said Lot or Living Unit is subject.

**308.3**            For the sole purpose of performing exterior maintenance, the POA shall have the right, after reasonable notice to the Owner, to enter upon any Lot or the exterior of any Living Unit at reasonable hours on any day except Sunday.

**308.4** Household trash must be bagged and placed in trash receptacles. Trash containers must be placed street-side for service on the scheduled pickup day. Trash containers must be retrieved no later than the day after collection. Trash receptacles must be stored in a manner minimizing their visual impact; i.e., inside garages, basements, or screened or fenced areas. Any exterior structure constructed to hold trash receptacles, and its placement, must be approved by the ACC. Street-side structures to hold trash containers will be approved according to the Waste Disposal Policy.

**308.4** Exterior maintenance being performed by anyone other than the Owner must first have a work permit issued by the Architectural Control Committee. This includes maintenance such as repair or replacing the roof, repair or replacing the siding, painting of siding, window, trim or doors, installation of a generator or propane tank, etc. Exterior maintenance being performed by the Owner does not require a work permit, unless any exterior color is being changed.

The Owner should contact their ACC Area Representative or the ACC Hotline to ask any questions regarding the need for a work permit for exterior maintenance.

A change which results in significant change to the shape, structure, or finish to the exterior of the building, i.e. porch enclosure, room addition, etc., or a major change to the landscape, i.e. retaining wall, pouring a driveway/sidewalk, installing a landscape fountain, etc., are examples of remodeling and not considered exterior maintenance.

[See Section 303.2 for applicable Exterior Remodeling/Maintenance fees]

## **SECTION 309 VARIANCE**

**309.1** Upon application or request, the Architectural Control Committee may authorize, in specific cases, a variance from the established Rules and Regulations as will not be contrary to the interest of the community where a literal enforcement of the provisions of the Rules and Regulations will result in practical difficulty or unnecessary hardship. The variance may be permitted as long as the spirit of the Rules and Regulations are observed, public safety and welfare secured, and substantial justice done. The Architectural Control Committee shall not have authority to grant a variance when to do so would permit a use of land, building or structure which is not permitted within the Rules and Regulations or applicable zoning district.

**309.2** In judging an application or request for a variance, the Architectural Control Committee shall be guided by the following:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same area.

(b) Granting the variance requested will not confer upon the applicant any special



privileges that are denied to other residents of the community.

- (c) A literal interpretation of the provisions of the Rules and Regulations would deprive the applicant of rights commonly enjoyed by other residents of the community.
- (d) The requested variance will be in harmony with the purpose and intent of the Rules and Regulations and will not be injurious to the community or to the general welfare.
- (e) The special circumstances are not the result of the actions of the applicant.
- (f) The variance is the minimum that will make possible the reasonable use of the land, building or structure.
- (g) A nonconforming use of neighboring land, structures or buildings will not be considered grounds for the issuance of a variance.

**309.3** Notice of Variance. Prior to a variance request being approved, any adjoining property owner(s) shall be given notice of the opportunity to be heard by the Architectural Control Committee regarding the variance, either by appearing in person or by providing written correspondence. Contact must be verified with the adjoining property owner(s) via telephone, US Postal Service or email. The adjoining property owner(s) will then be provided at least four (4) days to object to the requested variance.

If contact can not be verified with the adjoining property owner(s) prior to a variance request being presented to the Committee, the Committee may tentatively approve the variance, subject to contact being verified with the adjoining property owner(s). Once contact is verified, the adjoining property owner(s) will be provided four (4) days to provide an objection to the variance request. If no objection is received within four (4) days after contact, then the variance is approved. If an objection is raised the variance request and tentative approval will be suspended and reviewed by the Architectural Control Committee at their next meeting.

## **SECTION 310**            FENCES, WALLS and HEDGES

**310.1**            Along the edge of any street open fences (those allowing the free flow of light and air) and hedges, other than those prohibited, are limited to four feet in height. Chain link fencing is not permitted along the edge of any street. Solid walls are limited to three feet in height from the existing ground elevation. Walls and fences may be combined, provided not more than three feet of the height of the structure may be solid and the remainder shall be open fence work. Fences, walls and hedges are limited to six feet in height from the existing ground elevation on side and rear of a property. Walls and fences on the side and rear of the property may be combined, provided they do not border the edge of a street and the overall height does not exceed six feet. The maximum height does not take into consideration decorative elements such as balls, vases and the like.

**310.2** Wood fencing may be kept natural. The color of all other fencing must be approved utilizing a Committee approved color. Stand alone chicken wire, brick, hardware cloth, and other woven or mesh products are not permitted. Less conspicuous fencing attached to an open fence may be permitted with approval of the Committee.

**310.3** Retaining walls and silt fencing needed to prevent erosion or land subsidence are allowed in all yards where required, and are exempt from the height and material limitations of this section.

**310.4** Notwithstanding the foregoing or any other provision of these rules, any fence or wall to be constructed on a lot, where the rear or side lot line is contiguous to the golf courses or lakes, must first receive the approval of the Committee. The design, style, location and height may be restricted by the Committee based on the desired proximity to the golf courses or lakes. For example, the Committee may be more likely to approve a three foot open split rail fence over a six-foot closed privacy fence when the fence is to be placed immediately adjacent to a green, tee box, lake shore, etc.

**310.5** All fences, walls and hedges are subject to the provisions of Article III, Section 302.2.3 Plot Plan, and Section 302.2.4, Sight Distance at Intersections.

**310.6** Any fence existing prior to this amended section that does not comply with this section will be deemed non-conforming to the Rules and Regulations, but permitted. The fence will be permitted so long as it is not destroyed, removed or replaced. Any new construction of a fence on the property must first receive ACC approval.

### **Section 311 Water and Energy Efficiency/Dependency**

The Association supports and encourages its owners to utilize clean and renewable energy resources, to reduce their dependence on nonrenewable energy sources, and to increase the efficiency of their home. The Association does not seek to prohibit an owner in these efforts, but to ensure that the efficiency efforts are consistent and in harmony with the entire Association. Any item, device or installation not addressed within this section will be evaluated by the ACC on a case by case basis. These regulations apply to new installations. Existing devices will be allowed until such time as they are replaced.

#### **Section 311.1 Water Efficiency/Dependency**

Rain barrels, rain gardens, cisterns and any other devices intended to collect or store rainwater, or to reduce the need for irrigation, must be approved by the ACC. Any device not constructed out of natural material must be tinted or painted a color approved by the ACC. The placement of the device must be in a location recommended by the installer and agreed upon by at least two ACC Area Representatives. If multiple locations are available, the ACC Area Representatives will try to limit the visibility of the device from the street and/or neighboring properties, as long as it does not reduce the efficiency of the device. Should any question arise regarding the placement of a device,

the plan must be reviewed by the Committee.

### **Section 311.2 Energy Efficiency/Dependency**

External sun shading devices attached to a structure, or other external devices, used to reduce energy usage must be approved by the ACC. The placement of the device must be in a location recommended by the installer and agreed upon by two ACC Area Representatives. If multiple locations are available, the ACC Area Representatives will try to limit the visibility of the device from the street and neighboring properties, as long as it does not reduce the efficiency of the device. Should any question arise regarding the placement of a device, the plan must be reviewed by the Committee.

## **ARTICLE IV BALD MOUNTAIN LAKE AND SHUMONT LAKE**

### **SECTION 400     GENERAL**

- 400.1**           Bald Mountain Lake and Shumont Lake are owned by Fairfield Mountains POA.
- 400.2**           The lakes are private, and use is restricted to members of the POA, their invited guests, and persons legally entitled to access.
- 400.3**           The Rules and Regulations are intended to enhance use of the lakes and to preserve the lakes as valuable resources.

### **SECTION 401     ENVIRONMENTS**

- 401.1**           The construction or placement of any improvement or structure, including but not limited to decks, piers, ramps, floats, boathouses, docks, and gazebos is strictly prohibited without approval by the ACC.
- Lake (and Lake Shore) Structures:
- A.       Docks may be either a moored floating platform (solid or inflatable) or a four-post, non-floating traditional dock for swimming/fishing. If a solid floating platform, the floatation support must be fully encased modular Styrofoam units. These floatation supports should be beaver resistant.
  - B.       Dock platform may be anchored to lakebed with vertical pilings – concrete, galvanized steel or treated wood.
  - C.       All Lake Structures shall be engineered to withstand environmental forces for the duration of its use. It shall be maintained in good physical, structural and visual condition at all times. If damaged, it should be repaired, removed, or replaced immediately.
  - D.       New docks should be rectangular and have a platform (solid or inflatable) no larger than 400 SF in area. Only one lake structure will be permitted per

- lot.
- E. Docks shall, generally, be oriented parallel to the shoreline and must not encroach the side setback.
- F. Temporarily moored inflatable water recreation devices (in any color) shall be no greater than 8ft in diameter and are allowed on the lake only from May through September. They should keep close to Lot and not impede small boat traffic.
- G. Material, quality and color limitations of Articles II & III apply to all Lake Structures.
- H. Dock may not extend further than 30ft from the shoreline or one-third the distance from shoreline to shoreline, whichever is less.
- I. No diving platforms or overhead sunning/sitting platforms or enclosed boathouses may be constructed over the water or on the shoreline.
- J. Small, open air, boat shelters may be erected on shore or as close to shore as possible. Height should be no more than 8'-0".
- K. Docks can be constructed on unimproved lots on the condition that there are no covered structures (ramp and platform only). Access through the lot must also have prior approval and will be considered on a case-by-case basis.
- L. Fairfield Mountains POA is the owner of both Shumont and Bald Mountain Lakes. The building permit application must be filled out and included with the application. Fairfield Mountains POA must be the signer on the permit application as the owner of the property.
- M. After ACC approval, all docks must also have a building permit issued by the Town of Lake Lure.
- N. Any existing docks as of June 20, 2023 will be grandfathered in as acceptable. However, any replacements or modifications must meet current rules and restrictions.

**401.2** Nothing may be discharged or dumped into or around the lakes without the approval of the ACC.

**401.3** Water may only be withdrawn or pumped from the lakes only by Fire Departments without the approval of the ACC. All other situations, including for irrigation use, require prior ACC approval.

**401.4** Camping is prohibited.

**401.5** Any activity which adversely affects water quality is prohibited.

**SECTION 402**      BOAT REGISTRATION

**402.1** A boat registration fee may be charged by the POA.

402.2 Boats belonging to members who are not lakefront owners may be stored at sites designated by the POA.

**SECTION 403**      BOAT OPERATION

403.1 All safety regulations of the State of North Carolina and the United States Coast Guard shall be enforced.

403.2 A boat must contain a life jacket for each occupant.

403.3 No boat shall be operated in a reckless or negligent manner endangering the life of any person.

403.4 No person shall operate a boat while under the influence of a controlled substance or alcohol.

403.5 Children under the age of sixteen (16) shall not operate a boat without the supervision of a responsible adult.

403.6 Boats shall be brought to shore only at docking or launching sites, with the exception of lakefront owners on their property.

403.7 Only engines which produce less than an equivalent five (5) horsepower engine - only electric, manual and wind powered boats are allowed.

403.8 Sailboats are permitted but shall be no larger than "Sunfish" class (10-12 feet in length).

403.9 Jet skis and similar craft are prohibited.

403.10 Houseboats are prohibited.

403.11 Toilets are prohibited. Remaining on the lakes overnight is prohibited.

403.12 All children under the age of 13 must wear an appropriately sized and U.S. Coast Guard approved life jacket while in a vessel.

**SECTION 404**      FISHING

404.1 Only members and their invited guests may fish. Members are responsible for their guests; and guests must have a valid guest card.

404.2 All members and guests shall be familiar with and obey the fishing laws of the State of North Carolina.

**SECTION 405**      SWIMMING

**405.1**            Swimming from boats later than one (1) hour after sunset is prohibited. No lifeguards are present. Swim at your own risk.

**SECTION 406**      ENFORCEMENT

**406.1**            Violation of the Rules and Regulations shall be reported to Security.

**406.2**            Penalties, including suspension of privileges and/or fines, may be imposed by the POA for violations.

**406.3**            Fines will be deemed to be an assessment against the owner's lot or timeshare interest.

**ARTICLE V**

**SUPPLEMENTARY INFORMATION**

**SECTION 500**      GARBAGE AND REFUSE DISPOSAL    The Property shall not be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. Garbage shall be in covered sanitary containers and disposed of promptly. See Section 308.4

**SECTION 501**      NUISANCES      No noxious or offensive activity shall be carried out. Anything which is or may become offensive by reason of color, design, or emission of odor, liquid, gas, smoke, vibration, or noise or for any other reason will be considered a nuisance. Whenever, in the opinion of the Security Department or the ACC, fallen trees, cut branches, or other debris constitute a fire, health, or other hazard to persons or property the same shall be considered a nuisance. The POA shall, if deemed necessary and appropriate, take appropriate action against the owner/member to remove or remedy nuisances.

**SECTION 502**      LIVESTOCK AND POULTRY    No breeding or raising of bees, insects, reptiles, fish, worms, livestock, poultry, pigeons, etc. shall be permitted on the Property.

**SECTION 503**      WATER LINE AND SANITARY SEWER EXPANSION    No privately-owned water system shall be permitted upon any Lot or Parcel of Land unless such system is designed, located, and constructed in accordance with requirements, standards, and recommendations of the State Health Department and approved by the ACC.

No privately-owned sewage disposal system shall be permitted upon any Lot or Parcel of Land unless such system is designed, located, and constructed in accordance with

requirements, standards, and recommendations of the appropriate State and Federal agencies and approved by the ACC.

**503.1**            Water Line Expansion - All persons, including units of local government, intending to construct, alter, or expand a community water system shall give written notice thereof, including submission of applicable plans, specifications, and engineering reports, to the:

North Carolina Department of Environment  
and Natural Resources  
Division of Environmental Health  
Public Water Supply Section  
*1634 Mail Service Center  
Raleigh, NC 27699-1634*

The Final Approval notice will be given to the ACC. Return of the Security Deposit will not occur until the above approval has been received by the ACC.

Serving potable water from a system or system expansion prior to final approval by the above State Agency jeopardizes the health of consumers and represents a violation of the North Carolina Drinking Water Act, subjecting the owner to administrative penalties or other enforcement actions.

Plans for new construction, alteration, or expansion of a community water system must be approved by the ACC before the application is submitted to the “Public Water Supply Section” of North Carolina.

Anyone interested in installing a private well must receive a permit from the RPM Health Department, the North Carolina Department of Environmental and Natural Resources and the ACC before installing a private well

The use of water from wells, creeks, ponds, or lakes must be approved by the ACC.

**503.2**            Fire Hydrants - The Chief of the area Volunteer Fire Department will approve the location of all fire hydrants. Fire hydrants installed at locations not approved by the Chief will be relocated.

**503.3**            Gravity Sanitary Sewer Extension, Pump Stations, and Pressure Sewers All persons, including units of local government, intending to construct, alter or expand a community sewer system shall give written notice thereof, including submission of applicable plans, specifications, and engineering reports, to the:

North Carolina Division of Environmental Management  
Water Quality Section  
Permits and Engineering Unit  
512 N. Salisbury St.

Plans for the construction of sanitary sewers must be approved by the ACC before the application is submitted to the Town of Lake Lure. Plans approved by the Town will be submitted to the North Carolina Division of Environmental Management, Water Quality Section.

The Final Approval of sanitary sewer lines will be given to the ACC. Return of the Security Deposit will not occur until the above approval has been received by the ACC.

**SECTION 504**     SEDIMENTATION CONTROL     An erosion and sedimentation control plan must be reviewed by the ACC prior to being submitted to the Town or State Agency. A Land Disturbance Permit (LDP) must be obtained from:

Erosion Control Officer  
Town of Lake Lure  
2948 Memorial Highway  
Lake Lure, NC 28746

**SECTION 505**     PROTECTIVE SCREENING     There shall be compliance with all protective screening areas as reflected upon any recorded subdivision plat. Shrub plantings, fences and walls shall be maintained throughout the entire length of such areas by the Owner or Owners at their own expense to form an effective screen in order to protect and beautify the area. No building or structure except a screening fence or wall or utility or drainage facilities shall be placed or permitted to remain in such areas. No vehicular access over the area shall be permitted except for the purpose of installation and maintenance of screening, utilities and drainage facilities.

**SECTION 506**     EASEMENTS     Easements for the installation and maintenance of utilities and drainage facilities are reserved in the Declaration and will be reserved in any Supplemental Declaration and may also be reserved as indicated upon any recorded subdivision plat of The Properties. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels within the easements or which may obstruct or retard the flow of water through drainage channels within the easements. The easement area of each Lot and all improvements on it shall be maintained continuously by the Owner of the Lot, except for those improvements for which the POA, a public authority, or utility company is responsible.

**SECTION 507**     PORTABLE SELF STORAGE     Prior to delivery of a portable self storage unit (sometimes referred to as a POD) approval must be provided by the Committee or Area Representative. The Committee or Area Representative will consider factors such as the placement of the self storage unit, the number of self storage units requested, and the timeframe the self storage unit will be onsite. The self storage unit can not be placed close enough to a road so that it impedes traffic on that road causing a safety issue. Property owners are encouraged to limit the number of days a unit will be onsite to 2 weeks, but may be given more time depending on their circumstances



(e.g. storm/fire damage).

## ARTICLE VI

### SIGNS

**SECTION 600** The posting, displaying, erection, use, and maintenance of signs is regulated for the purpose of promoting the safety, health, peace, dignity, and general welfare of the people of Rumbling Bald on Lake Lure in a manner consistent with the natural beauty of the area.

**600.1** All signs are prohibited except the following:

- Signs erected by the POA, Town, or County for the identification of streets, traffic control, and directional purposes.
- Signs indicating the names and addresses of occupants (the sign may not exceed 12" x 24" in size)
- Signs erected by General Contractors during the construction of homes, condominiums, and villas. The only sign permitted on construction sites is that of the primary contractor. Financial institutions and subcontractors, etc., may not display signs. One sign per construction site will be permitted (the sign may not exceed 24" x 24" in size). All contractor signs must be removed before the Security Deposit is returned.
- Signs required by governmental agencies, by the ACC or POA. (examples: Building Permit, ACC Permit or by Legal Agreement for signage.)
- Warning and regulatory signs.
- Temporary directional signs by property owners, as authorized by the Security Department, within the current ACC size guidelines.
- Signs approved by the ACC.

**600.2** "FOR SALE" signs may not be displayed on the property, except those provided by the POA. "Open House" signs are allowed to be posted 1 hour prior to the event and must be removed 1 hour afterward. The POA can restrict "Open House" signs at any time. If a real estate company or broker routinely violates this section, the POA may prohibit the company or broker from installing signs.

**600.3** A Permit from the ACC is required for signs to be placed in areas zoned as Commercial on the Zoning Map of Lake Lure.

**Section 600.4** United States flags, North Carolina state flags, and political sign displays. The POA permits the display of the flag of the United States or North Carolina, of a size no greater than four feet by six feet, which is displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. §§ 5-10, as amended, governing the display of and use of the flag of the United States. The display of political signs (Federal, State, Local), whether outdoor or indoor visibility outdoor, are also permitted by an association member on property owned exclusively by the member, so long as the political sign is limited to one sign, it is posted no earlier than 45 days before the day of the election and removed at least seven days after an election day, and limited to the maximum dimensions of 24 inches by 24 inches.

**SECTION 601**      Removal of Non-Complying Signs      The ACC will notify the owner or the owner’s agent of non-complying signs. If action is not taken by the owner, the Security Department will remove non-complying signs.

## ARTICLE VII

### IN-HOME BUSINESS

**SECTION 700**      The practice of any profession or the carrying on of any business within a residence or residential area will be permitted only if the following items are satisfied:

- there is no exterior evidence of the presence of a business;
- there are no signs indicating the presence of a profession or business;
- the business is not detectable by sight, sound, or smell;
- customers, clients, business visitors, or truck deliveries do not create traffic or parking problems or other situations which might be considered a nuisance; and
- the profession or business does not violate the Lake Lure Zoning Ordinance.

## ARTICLE VIII

### SUBJECTION OF NON-POA PROPERTY TO THE PROPERTY OWNER’S ASSOCIATION

**SECTION 800**      The ACC shall perform inspections of non-POA properties requesting subjection for the purpose of determining compliance with the Rules and Regulations. A letter providing both the results of the inspection and a recommendation regarding the acceptability of the dwelling for subjection will be given to the POA Member Services Manager for placement in the property file.

**800.1** Homebuilders on non-POA properties are encouraged to observe the Rules and Regulations if there is any possibility that subsection might be requested in the future.

## **ARTICLE IX**

### **NEW SUBDIVISIONS**

**SECTION 900** Developers are required to present their plans to the ACC for review and discussion if there is any possibility in the future of requesting subsection of properties within the Subdivision to the Property Owner's Association.

**900.1** Developers must obtain preliminary approval from the ACC before seeking approval from the Town of Lake Lure.

## **ARTICLE X**

### **ENFORCEMENT OF THE RULES AND REGULATIONS**

**SECTION 1000** Enforcement of the Rules and Regulations shall be by any proceeding of law or in equity against any person or corporation in violation. The violation may be restrained and/or damages may be recovered. Failure by the POA or ACC to enforce the Rules and Regulations shall not be deemed a waiver. The actions taken by the ACC or the POA may include, but are not limited to, the following:

Requiring a specific performance, a mandatory injunction to compel compliance, and/or a prohibitory injunction to prohibit the violation. Attorney's fees and court costs may be recovered.

Pursuit of compensatory damages and court costs.

Requesting that the POA complete the construction, establish silt fences, contract for landscaping, or take any other action to bring the project into compliance. The property owner will be assessed for costs incurred.

**SECTION 1001** The ACC shall have the right to levy fines and penalties against homeowners who violate the Rules and Regulations.

**SECTION 1002** Fines may be imposed according to the North Carolina Planned Community Act, 47F-3-107.1, as amended. Hearings shall be conducted by the ACC. The contractor and property owner shall be given notice of the charge, an opportunity to be heard and to present evidence, and

notice of the decision. A notice of the fines levied by the ACC shall be mailed to the contractor and property owner at the address shown on the Application for ACC Permit. Notification of fines shall be provided to the Chief Executive, the Chief Financial Officer, and the Member Services Manager of the Rumbling Bald on Lake Lure. Fines shall be assessments secured by liens under G.S. 47F-3-116.

If the decision is to suspend planned community privileges and/or services, the suspension may be continued without further hearing until evidence is received by the ACC that the violation has been corrected.

**SECTION 1003** Fines may be appealed to the POA Board of Directors within fifteen (15) days. The POA Board shall have the right to uphold the fine, reduce the amount of the fine, or retract the fine. Appeal of the decision of the POA shall be made within fifteen (15) days to either the District or Superior Courts of the General Court of Justice, Civil Division, Twenty-Ninth Judicial District, of the State of North Carolina.

## **ARTICLE XI**

### **AMENDMENT OF THE RULES AND REGULATIONS**

**SECTION 1100** The ACC, by formal motion, may recommend amendment of the ACC Rules and Regulations to the POA Board of Directors. The Board of Directors shall approve or disapprove amendments. The action of the Board of Directors shall be contained in the POA Minutes, and a copy of the Minutes shall be transmitted to the ACC. The Secretary of the ACC will include approved amendments in the ACC Rules and Regulations.

**SECTION 1101** The Rules and Regulations may be revised or amended by a directive of the POA Board of Directors.

## EXHIBIT A

### MODULAR HOME POLICY

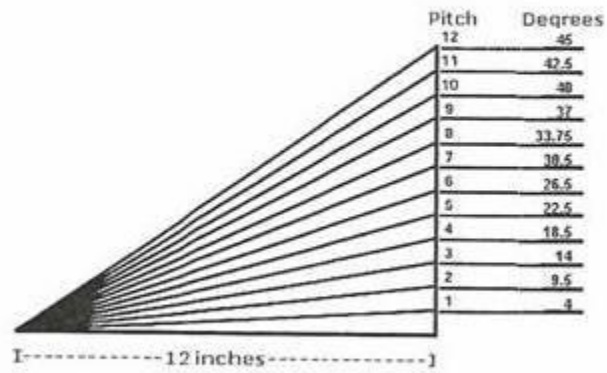
Modular homes will be considered if their structural plans and the planned building and installation meet the following requirements.

- a) As per existing policy, only those trees cleared for the home, driveway and the septic field will be allowed to be removed. No other trees will be allowed to be removed unless prior approval is obtained from the ACC.
- b) The roof must have an 8/12 pitch at a minimum.
- c) The ceiling heights must be a minimum of eight feet.
- d) All siding must be field installed eliminating any joint lines.
- e) "Boxy" looks will not be accepted. Lines of the house should be broken with porches, additions, etc.
- f) The size of the house must agree with the current policies and restrictive covenants (i.e., a minimum of 900 square feet on the first level with a total heated livable area of 1,800 square feet).
- g) The finished product or house must not present a "packaged" appearance.
- h) The house must not have a permanent chassis, axles or wheels.
- i) In transporting the construction, no trees will be trimmed or cut along the route to the site.
- j) All road damage shall be repaired immediately by the supplier or contractor at the obligation of the property owner.
- k) Construction must allow for continuous traffic flow.
- l) Any and all modular construction must meet all applicable North Carolina residential building codes.
- m) All homes must be attached to a permanent foundation.
- n) Title to the installed home must pass by way of real property deed and not by transfer of manufacturer's certificate of origin with a motor vehicle title.
- o) No mobile homes or trailers will be allowed. Mobile homes and trailers are defined as structures designed to be moved or transported.

Adopted by the Fairfield Mountains POA Board of Directors on May 11, 2000.

## Roof Pitch to Degrees Equivalent

This drawing demonstrates how many degrees rise for each pitch of a typical roof. Look at the column labeled pitch, then look under degrees to get the corresponding amount of degrees. Example; 8/12 pitch = 33.75 degrees.



**VIOLATION**  
**OF THE**  
**ACC**  
**RULES AND REGULATIONS**

The ACC Representative personally will notify the Contractor and the Property Owner of a Violation of the ACC Rules and Regulations and provide a deadline for correction of the Violation.

If the Violation is not corrected by the deadline, the Owner will receive a *Violation Notice* providing a deadline for correction of the Violation.

If the Violation is not corrected by the deadline provided in the *Violation Notice*, a Violation Hearing will be scheduled.

If the Violation Hearing determines that a Violation has occurred, the Property Owner may be fined one hundred dollars (\$100) per incident and provided with a deadline for correction of the Violation. An additional fine of one hundred dollars (\$100) per day may be imposed beginning with the deadline and continuing until the Violation has been corrected. Additionally, if a decision is made to suspend planned community privileges and/or services, the suspension may be continued without further Hearing until evidence is received by the ACC that the Violation has been corrected.