

AFTER RECORDING RETURN TO:

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# BALCONES CREEK

## DESIGN GUIDELINES – 70' LOTS

Adopted:

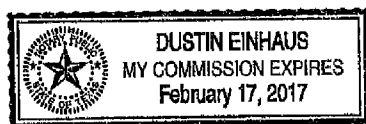
LHM BALCONES CREEK DEVELOPMENT, INC., a Texas corporation

By: Jay Hanna  
Name: JAY HANNA  
Title: PRESIDENT

THE STATE OF TEXAS §  
COUNTY OF Travis §

This instrument was acknowledged before me on this 16 day of June, 2014,  
by Jay Hanna, President of LHM Balcones Creek  
Development, Inc., a Texas corporation, on behalf of said corporation.

(Seal)



[Signature]  
Notary Public Signature

Adopted by LHM Balcones Creek Development, Inc., in accordance with the Balcones Creek Master Covenant, recorded as Document No. 20130055903, Official Public Records of Bexar County, Texas (the "Covenant"). In accordance with Section 6.05(b) of the Covenant, these Design Guidelines may be amended from time to time by the Balcones Creek Reviewer (as defined in the Covenant).

## **Introduction**

Any notice or information required to be submitted to Balcones Creek Reviewer under these Design Guidelines hereunder will be submitted to the Balcones Creek Reviewer, 1011 N. Lamar Blvd., Austin, Texas 78703, Phone: (512) 481-0303, Fax: (512) 481-0333.

### **Property Subject To:**

Lots 1 through 28, Block 5, and Lots 1 through 10, Block 6, Balcones Creek Ranch, Unit 2, Enclave, a subdivision located in Bexar County, Texas, according to the map or plat recorded in Document No. 20140086843, in the Official Public Records of Bexar County, Texas.

### **Applicable Development Area Declaration:**

Balcones Creek Development Area Declaration [Unit 2], recorded as Document No. 20140100002 in the Official Public Records of Bexar County, Texas.

## **Background**

Balcones Creek is a master planned community located in Bexar County, Texas. The community is subject to the terms and provisions of that certain Balcones Creek Master Covenant, recorded in the Official Public Records of Bexar County, Texas (the "**Covenant**"), and the Development Area Declaration described above (the "**Development Area Declaration**"). The Covenant and each Development Area Declaration includes provisions governing the construction of improvements and standards of maintenance, use and conduct for the preservation of the Balcones Creek community.

### **Balcones Creek Reviewer and Review Authority**

Article 6 of the Covenant includes procedures and criteria for the construction of improvements within Balcones Creek community. Section 6.04 and Section 3.01 of the Development Area Declaration provides that no Improvements may be placed maintained erected or constructed within the Development without the prior written approval of the Balcones Creek Reviewer.

The Balcones Creek Reviewer consists of members who have been appointed by the Declarant. Until expiration or termination of the Development Period, the Association does not administer the review and approval of Improvements within the Development.

## **Governmental Requirements**

Governmental ordinances and regulations are applicable to all Lots within Balcones Creek. It is the responsibility of each Owner to obtain all necessary permits and inspections. Compliance with these Design Guidelines is not a substitute for compliance with the applicable ordinances and regulations. Please be advised that these Design Guidelines do not list or describe each requirement which may be applicable to a Lot within Balcones Creek. Each Owner is advised to review all encumbrances affecting the use and improvement of their Lot prior to submitting plans to the Balcones Creek Reviewer for approval. Furthermore, approval by the Balcones Creek Reviewer should not be construed by the Owner that any Improvement complies with the terms and provisions of all encumbrances which may affect the

Owner's Lot. Certain encumbrances may benefit parties whose interests are not addressed by the Balcones Creek Reviewer.

The Balcones Creek Reviewer shall bear no responsibility for ensuring plans submitted to the Balcones Creek Reviewer comply with Applicable Law.

### **Interpretation**

In the event of any conflict between these Design Guidelines, the Covenant or the Development Area Declaration, the Covenant and the Development Area Declaration (in that order) shall control. Terms used but not defined in these Design Guidelines shall have the meaning subscribed to such terms in the Covenant.

### **Amendments**

The Balcones Creek Reviewer, acting alone, may amend these Design Guidelines. All amendments shall become effective upon recordation in the Official Public Records of Bexar County, Texas. Amendments shall not apply retroactively so as to require modification or removal of work already approved and completed or approved and in progress. It is the responsibility of each Owner to ensure that they have the most current edition of the Design Guidelines and every amendment thereto.

## **Architectural Review Process**

### **Submittals**

Requests for approval of proposed construction, landscaping, or exterior modifications must be made by submitting an application in the form attached hereto as Attachment 1.

### **Timing**

The Balcones Creek Reviewer will attempt to review all applications and submittals within thirty (30) days. Please allow at least thirty (30) days prior to installation or construction for the Balcones Creek Reviewer to review the related applications. Please be advised that in the event that any plans and specifications are submitted to the Balcones Creek Reviewer and the Balcones Creek Reviewer fails to either approve or reject such plans and specifications for a period of thirty (30) days following such submission, the plans and specifications will be deemed disapproved.

### **Responsibility for Compliance**

An applicant is responsible for ensuring that all of the applicant's representatives, including the applicant's architect, engineer, contractors, subcontractors, and their agents and employees, are aware of these Design Guidelines and all requirements imposed by the Balcones Creek Reviewer as a condition of approval.

## Inspection

Upon completion of all approved work, the Owner must notify the Balcones Creek Reviewer. The Balcones Creek Reviewer may, but shall in no event be obligated, to inspect the work at any time to verify conformance with the approved submittals.

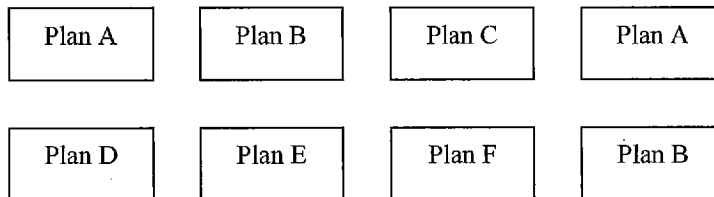
## Architectural and Aesthetic Standards

### Plan Repetition

The Balcones Creek Reviewer may, in its sole and absolute discretion, deny a plan or elevation proposed for a particular Lot if a substantially similar plan or elevation exists on a Lot in close proximity to the Lot on which the plan or elevation is proposed. The Balcones Creek Reviewer may adopt additional requirements concerning substantially similar plans or elevations constructed in proximity to each other.

For Example:

- *Plan can be repeated every third Lot (example: Plan A, Plan B, Plan C, and Plan A).*



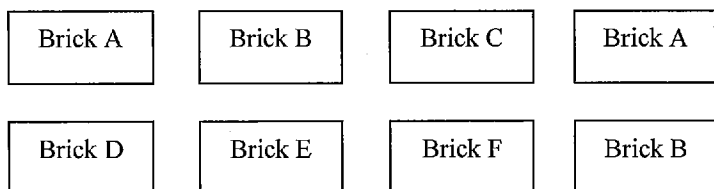
- *Across the Street: Same plan cannot be placed on a Lot across the street or diagonal from any other plan (example above: Plan B).*

### Brick Color and Masonry Stone Repetition

The Balcones Creek Reviewer may, in its sole and absolute discretion, deny proposed brick or masonry for a particular Lot if substantially similar brick or masonry exists on a Lot in close proximity to the Lot on which the brick or masonry is proposed. The Balcones Creek Reviewer may adopt additional requirements concerning substantially similar brick or masonry constructed in proximity to each other.

For Example:

- *Similar brick or masonry can be repeated every third Lot (example: Plan A, Plan B, Plan C, and Plan A).*



- *Across the Street: Same brick or masonry cannot be placed on a Lot across the street or diagonal from any other brick or masonry (example above: Brick B).*

## Building Materials

- All building materials must be approved in advance by the Balcones Creek Reviewer, and only new building materials (except for used brick) shall be used for constructing any Improvements.
- All projections from a dwelling or other structure, including but not limited to chimney flues, vents, gutters, downspouts, utility boxes, porches, railings and exterior stairways must, unless otherwise approved by the Balcones Creek Reviewer, match the color of the surface from which they project.
- No vertical siding or wood shake siding will be permitted.
- No highly reflective finishes (other than glass, which may not be mirrored) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including, without limitation, the exterior surfaces of any Improvements.

## Masonry Requirements

- The exposed surface of the exterior walls of each primary residence shall be constructed of seventy-five percent (75%) masonry, exclusive of roofs, eaves, soffits, windows, gables, doors and trim work; and (ii) the second floor of each primary residence shall be constructed of twenty-five percent (25%) masonry, exclusive of roofs, eaves, soffits, windows, gables, doors and trim work. Only brick, stucco and natural stone shall be considered masonry. Notwithstanding the foregoing, on all Lots which share a common boundary line or are otherwise adjacent to Paloma Drive and Balcones Way (the "**Primary Streets**"): (i) the exposed surface of the exterior walls of the first and second floor of each primary residence facing the Primary Streets shall be constructed of one hundred percent (100%) masonry, exclusive of roofs, eaves, soffits, windows, gables, doors and trim work.. In the event of a dispute as to whether a Lot shares a common boundary line or is otherwise adjacent to a Primary Street, the determination of the Balcones Creek Reviewer shall be final and conclusive. Notwithstanding the foregoing, on all Lots facing the public right-of-way: (ii) the exposed surface of the exterior walls of the first and second floor of each residence facing the public right-of-way shall be constructed of one hundred percent (100%) masonry, exclusive of roofs, eaves, soffits, windows, gables, doors and trim work. In the event of a dispute as to whether a Lot faces a public right-of-way, the determination of the Balcones Creek Reviewer shall be final and conclusive. No masonry with gray color tones other than mortar will be permitted.
- No foundation of a residence may:

(i) be exposed more than twenty-four inches (24") above final grade along: (a) the front elevation of the residence; or (b) each side elevation of the residence within fifteen feet (15') from the front elevation of the residence; or

(ii) may be exposed more than thirty-six inches (36") above final grade at any other point on the residence.

If a foundation would not otherwise comply with the preceding sentence, the foundation shall be built to include a finished wall matching the exterior wall of the primary dwelling structure located on the Lot, which will extend to within twenty-four inches (24") (if at a point described in (i) above), or thirty-six inches (36") (if at a point described in (ii) above) above final grade. If the exterior of the elevation adjacent to the exposed foundation is constructed of stucco, the Balcones Creek Reviewer will have the authority to require the use of stone, in a color approved in advance by the Balcones Creek Reviewer, to conceal the exposed portion of the foundation. In the event of a dispute as to the front or side elevation of a residence, the determination of the Balcones Creek Reviewer shall be final and conclusive.

## **Square Footage**

The minimum living square footage for each residence, exclusive of open or screened porches, terraces, patios, decks, driveways, and garages, is two thousand and five hundred (2,500) square feet.

## **Aesthetic Appeal**

The Balcones Creek Reviewer may disapprove the construction or design of a home on purely aesthetic grounds. Any prior decisions of the Balcones Creek Reviewer regarding matters of design or aesthetics will not be considered to establish a precedent for any future decision of the Balcones Creek Reviewer.

## **Siting/Setbacks**

The following setbacks shall apply to each Lot other than a corner Lot:

- Front Lot line: 20 feet
- Rear Lot line: 20 feet
- Side Lot line: 5 feet

The following setbacks shall apply to each corner Lot:

- Front Lot line: 20 feet
- Rear Lot line: 20 feet
- Side Lot line - Side of Lot adjacent to, or facing the street: 15 feet
- Side Lot line - Side of Lot adjacent to, or facing any other Lot: 5 feet
- Corner lots that share a common side line with a landscape easement on the street side of the lot are only required to have a 5 foot setback from the landscape easement.

In the event of a dispute as to whether a Lot is considered a corner lot hereunder, the determination of the Balcones Creek Reviewer shall be final and conclusive.

Notwithstanding any provision to the contrary in these Design Guidelines, a covered porch shall be permitted to extend to a point no closer than ten feet (10') from the rear boundary line of a Lot.

The Balcones Creek Reviewer must approve the encroachment of any flatwork, i.e. driveway, porch, etc. over the side building setbacks.

The Balcones Creek Reviewer reserves the right to stipulate additional building or improvement setbacks attributable to any Lot. The Balcones Creek Reviewer further reserves the right to grant variances to the setbacks set forth herein in accordance the Covenant.

## House Width

The width of the single family residence constructed on a Lot shall be no less than seventy-five percent (75%) of the width of the Lot.

## Temporary/Accessory Structures

Owners will generally be permitted to erect one (1) accessory structure on their Lot providing the accessory structure, such as a pool cabana, garden building, storage building, or home office is approved in advance by the Balcones Creek Reviewer. In no event will the total square footage of any approved accessory structure be interpreted to reduce the minimum square footage requirements of the principal residential structure as set forth in these Design Guidelines.

Unless otherwise approved in advance and in writing by the Balcones Creek Reviewer, an accessory structure: (i) may be no greater than 10' by 12' (120 square feet) as measured by the dimensions of the foundation of the accessory structure and from the finished grade of the Lot to the highest portion of the accessory structure; (ii) the exterior of the outbuilding must be constructed of wood or masonry and may not be constructed of metal or plastic; (iii) must utilize roof materials that match the roof materials incorporated into the principal residential structure constructed on the Lot; (iv) have a pitched roof of the same pitch the principal residential structure constructed on the Lot; (v) the siding must be of at least the same quality/color as that used on the principal residential structure constructed on the Lot; (vi) the paint must match the color of the trim of the principal residential structure constructed on the Lot; (vii) the shingles must be either the same as on the principal residential structure constructed on the Lot or wood shake shingles; and (viii) no accessory structure may be located nearer than five (5) feet from an interior (side) lot line.

Temporary storage structures also known as "pods" are allowed with the prior written approval of the Association Management office provided that:

- Structure is located in the driveway of the Lot; and
- Structure is not placed on any Lot for more than seven (7) days.

The Balcones Creek Reviewer shall be entitled to determine, in its sole and absolute discretion, whether a structure or shed on any Lot complies with the foregoing requirements relating to size, height, fence enclosure and construction materials. No accessory structure will be approved unless a principal residential structure has been constructed on the Lot or the accessory structure is being constructed at the

same time as the principal residential structure. The Balcones Creek Reviewer may adopt additional requirements for any accessory structure on a case by case basis as a condition to approval.

## **Prohibited Elements**

The following architectural elements are prohibited within Balcones Creek unless expressly approved in writing by the Balcones Creek Reviewer:

### **Roofs**

- Excessively pitched roofs.
- Mansard, gambrel or chalet roofs.
- Flat roofs.
- Roofs that are too steep or too shallow for the style of the home.
- Shed roofs except as incidental to the main roof.

### **Design Elements**

- Unnecessarily prominent chimneys and other roof penetrations.
- Vents or skylights facing the street.
- White or bubble skylights.
- Mirrored glass.

### **Materials and Colors**

- Wood siding (wood siding accents may be permitted if approved by the Balcones Creek Reviewer ).
- Cultured stone.
- Gray brick.

## **Building Height**

Unless otherwise approved in advance by the Balcones Creek Reviewer, no building or residential structure may exceed thirty five feet (35') in height as measured from the top of the foundation slab of the proposed Improvement to the ridge line of the roof of the proposed Improvement.

Views are neither guaranteed, preserved, nor protected within Balcones Creek.

## **Room Additions**

Any room additions must be approved in writing by the Balcones Creek Reviewer.

Additions to a residence will be considered for approval by the Balcones Creek Reviewer if they meet the following:

- All materials used match those of the principal residential structure, including siding, brick, windows, and paint color, shingles, etc.
- Sunrooms will be considered.
- Screened Porches will be considered on a case by case basis and must meet the following minimum acceptable standards:

- The porch and related improvements must be compatible with the architectural elements of the principal residential structure. Paint colors and materials must match those of the principal residential structure.
- Design should reflect consideration for any adverse impact of neighboring properties.
- Screened porches shall be located in back yard only. The screened porch shall not encroach on any easement or building line.
- Screened porch shall be attached to the principal residential structure.
- Free standing screened porches are not permitted.
- Supplemental landscaping may be required as part of the Balcones Creek Reviewer review.
- The roof of screened porch shall be solid decking shingled to match the principal residential structure.

### **Greenbelt/Open Space Lots**

“Greenbelt/Open Space Lots” shall refer to Lots/land that has not been developed, whether it is owned by the Declarant, a Homebuilder, the Association or another Owner and is not intended for use as a single family Lot. These areas are to be considered as private property and trespassing is prohibited. Lots Adjacent to Greenbelt/Open Space Lots must comply with all of the following requirements:

- The boundary between the Lot and the Greenbelt/Open Space Lots must be fenced in a manner approved in advance by the Balcones Creek Reviewer.
- The fence must be 6 feet in height and be constructed of “pyrite brown” wrought iron or other decorative metal of a color and style specified by the Balcones Creek Reviewer.
- No gate will be permitted into a Greenbelt/Open Space Lot.
- Backyards must be fully sodded with at least two 3” caliper hardwood trees installed by the Owner.
- Sheds or outbuildings will not be permitted on any Lot adjacent to Greenbelt/Open Space Lots.
- At no time are Greenbelt/Open Space Lots to be used for ingress/egress or storage.
- Greenbelt/Open Space Lots should remain in their natural state. No removal or trimming of trees is permitted.

Non-compliance with the above requirements will result in an immediate fine as outlined in the Schedule of Fines included in these Design Guidelines.

### **Roofs and Chimneys**

The pitch, color and composition of all roof materials must be approved in writing by the Balcones Creek Reviewer. Roof vents and other penetrations shall be as unobtrusive as possible and must match the principal color of the roof unless approved in advance by the Balcones Creek Reviewer.

- Accepted Roof Pitch: The roof of the primary residence erected on a Lot shall have a pitch of no less than 6:12, unless otherwise approved in advance by the Balcones Creek Reviewer. The roof pitch of dormers, porches and other similar accessory structures attached to the primary residence shall be exempt from this requirement, but nonetheless subject to approval by the Balcones Creek Reviewer.

- Accepted Roof Materials: roofing materials shall be limited to non-reflective metal, clay tile or composition roofs with an architectural profile and shall be expressly approved by the Balcones Creek Reviewer and shall have a minimum warranty of thirty (30) years. Notwithstanding the foregoing, three tab composition shingle roofs are prohibited. In addition, roofs may be constructed with “Energy Efficiency Roofing” with the advance written approval of the Balcones Creek Reviewer. For the purpose of the Section, “Energy Efficiency Roofing” means shingles that are designed primarily to: (i) be wind and hail resistant; (ii) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (iii) provide solar generation capabilities. The Balcones Creek Reviewer will not prohibit an Owner from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (a) resemble the shingles used or otherwise authorized for use within the community; (b) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (c) match the aesthetics of adjacent property. An Owner who desires to install Energy Efficient Roofing will be required to comply with the architectural review and approval procedures set forth in the Covenant. In conjunction with any such approval process, the Owner should submit information which will enable the Balcones Creek Reviewer to confirm the criteria set forth in this Section. Any other type of roofing material shall be permitted only with the advance written approval of the Balcones Creek Reviewer.

## **Driveways and Sidewalks**

The design of all driveways must be approved in advance by the Balcones Creek Reviewer and no circular driveways shall be permitted.

Aggregate and/or stained concrete driveways are prohibited. Drives shall intersect the street at as close to 90 degrees as possible.

Driveways must permit entry by standard mid-size vehicles without “bottoming out” in the transition area between the curb and property line as well as the driveway area between the property line and the garage.

If the driveway is raised significantly above finished grade (which will be determined by the Balcones Creek Reviewer in its sole and absolute discretion), the exposed sides of the driveway must be screened with landscaping approved in advance by the Balcones Creek Reviewer.

Each Owner of a Lot must build or cause to be built on such Owner’s Lot, in a location designated by the Balcones Creek Reviewer, in conjunction with and at the time of construction of the principal residential structure constructed on such Lot. In constructing such sidewalk, each Owner shall be obligated to comply with Applicable Law, including any applicable requirements of the Americans with Disabilities Act. Sidewalks from the drive to the principal residential structure shall have the same pattern and material as the driveway.

## **Garages**

No carports shall be placed, erected, constructed, installed or maintained on a Lot.

All garages shall be approved in advance of construction by the Balcones Creek Reviewer. The Improvements on each Lot must contain a private, enclosed garage capable at all times of housing at least

two (2) standard size automobiles. No garage may be sized to accommodate more than three (3) standard size automobiles without the approval of the Balcones Creek Reviewer. Each garage shall have a minimum width, as measured from inside walls, of 9.6' per car and a minimum depth for each car of 20'. Garages may contain appropriately sized storage rooms, recreational workshops and tool rooms, or servants quarters or guest quarters, if approved in advance by the Balcones Creek Reviewer. Except with respect to detached garages, interior walls of all garages must be finished (*i.e.*, taped, bedded and painted, at a minimum). Each garage shall have garage doors that are wired so as to be operated by electric door openers. The orientation of the opening into a garage (*i.e.*, side-entry or front-entry) must be approved in advance by the Balcones Creek Reviewer.

All garage doors shall remain closed at all times, save and except for the temporary opening of same in connection with the ingress and egress of vehicles and the loading or placement and unloading, or removal of other items customarily kept or stored therein, when a person is in the garage or engaged in yard work, or there is another activity occurring on the Lot which is reasonably facilitated by an open garage door.

No garage shall be converted to another use (*e.g.*, living space) without the substitution, on the Lot involved, of another garage meeting the requirements of this section, and the approval of the Balcones Creek Reviewer, and use of parking space in a garage for work areas or storage (including boxes, toys, exercise equipment, furniture; or work benches) to the exclusion of one or more vehicles is strictly prohibited.

### **Arbors/Pergola/Patio Covers**

All arbors, pergolas and patios covers shall be approved in advance of construction by the Balcones Creek Reviewer.

Arbors and patio covers must meet the following:

- Be of cedar or a wood that is painted to match the principal residential structure constructed on the Lot (all other materials will be reviewed by the Balcones Creek Reviewer on a case by case basis.)
- If roof is solid cover the shingles must match the principal residential structure constructed on the Lot.
- Lattice on the arbor will be considered by the Balcones Creek Reviewer on a case by case basis.
- Approved stain color is Behr Natural #501. Behr brand is not required, but color should match.

### **Decks**

All decks shall be approved in advance of construction by the Balcones Creek Reviewer.

Backyard deck additions must meet be of cedar or a wood that is painted or stained to match the principal residential structure constructed on the Lot (all other materials will be reviewed on a case by case basis by the Balcones Creek Reviewer).

## **Exterior Lighting**

All exterior lighting must be approved in advance by the Balcones Creek Reviewer. Exterior lighting will be kept to a minimum, but consistent with good security practices. Such illumination shall be designed and installed so as to light only the principal residential structure, landscaping, driveway areas and walkways upon a Lot. Indirect sources and horizontal cut-off fixtures are recommended to reduce glare and provide general ambient light. Soffit or tree lights must be shielded or directed towards vegetation so as to eliminate glare and source visibility.

No exterior light whose direct source is visible from a street or neighboring property or which produces excessive glare to pedestrian or vehicular traffic will be allowed.

Any permitted ground-level light fixtures shall be depressed or screened from public view in a manner approved by the Balcones Creek Reviewer. No outdoor lighting shall be directed towards or focused in the Common Area, buffer zones, greenbelts or dedicated habitat or conservation easements.

Use of other than white or color corrected high intensity lamps and exterior lights will not be allowed. Sodium, mercury vapor, or bare HID yard lights are not allowed.

## **Exterior Holiday Decorations**

Lights or decorations may be erected on the exterior of the principal residential structure in commemoration or celebration of publicly observed holidays provided that such lights or decorations do not unreasonably disturb the peaceful enjoyment of adjacent Owners. All lights and decorations must not be permanent fixtures of the principal residential structure without prior written approval of the Balcones Creek Reviewer and shall be removed within thirty (30) days after the holiday has ended. Christmas decorations or lights may not be displayed prior to November 15.

## **Miscellaneous**

### **HVAC Location and Screening**

No air-conditioning apparatus may be installed on the ground in front of the principal residential structure or on the roof of the principal residential structure. No window air-conditioning apparatus or evaporative cooler may be attached to any front wall or front window of the principal residential structure or at any other location where it would be visible from any street, any other Lot or any Common Area.

Air conditioning compressors and pool equipment shall be enclosed by a structural screening element constructed of materials approved in advance by the Balcones Creek Reviewer.

### **Barbecue Grills**

Freestanding barbecue grills are permitted only if they are stored and used in the rear yard space of the Lot that is not visible from the street.

### **Signage**

The signage requirements are set forth in the applicable Development Area Declaration.

## **Landscape Guidelines**

Detailed landscape plans for each Lot may be submitted to the Balcones Creek Reviewer for consideration after construction of the principal residential structure thereon has begun, so long as such submission occurs at least ninety (90) days before completion of the residence. Upon written request, however, the Balcones Creek Reviewer may waive the requirement of landscape plans for any Lot by a Homebuilder. There shall be no revisions made to approved plans without submission to, and approval by, the Balcones Creek Reviewer of the revised plans. All introduced vegetation shall be trees, shrubs, vines, ground covers, seasonal flowers or sodded grassed which are commonly used in South Central Texas for landscaping purposes and which are approved by the Balcones Creek Reviewer. Landscaping in accordance with the approved plans shall be installed within ten (10) days after issuance of a certificate of occupancy with respect to the principal residential structure. Extensions to the time limit may be granted by the Balcones Creek Reviewer for up to an additional thirty (30) days on a case by case basis. The approved plans shall include permanent sodded zoysia grass or "ground cover" in all sodded areas. Winter rye shall be considered a temporary measure to reduce soil erosion through the winter season, and shall be completely removed and replaced with sodded grass according to the approved plans. Each Lot shall be landscaped, at a minimum, with: (i) full sodded front and side yards (in front of fences), with backyards to be fully sodded by the Owner within thirty (30) days after acquiring occupancy of the Lot for residential purposes, (ii) the following number of hardwood shade trees--two (2) per Lot on all Lots other than corner Lots and four (4) per corner Lot (with two (2) in the front portion of the Lot, and two (2) in the side of the Lot adjacent to the street), and ten (10) shrubs sized five gallons or more. The hardwood shade trees required by this Section shall be no smaller in size than 3" caliper. Trees and other foliage over 3' tall need Balcones Creek Reviewer approval. After installation, landscaping (including temporary landscaping) shall be properly maintained at all times. Any Owner who wishes to plant one or more gardens upon their Lot must obtain the approval of the Balcones Creek Reviewer of any such garden and must follow applicable requirements as to size of the Lot, visibility of the Lot from other Lots, streets or common areas, and such other matters as the Balcones Creek Reviewer may specify in any written approval.

During construction, existing trees shall be preserved and protected to the extent possible for the intended development, as determined in the Balcones Creek Reviewer's discretion; provided, however, that the Balcones Creek Reviewer may require the removal of cedar trees from a Lot regardless of the size of such cedar trees. For the purposes of this section, existing trees shall be deemed to be trees of 19" caliper and above. No existing trees shall be removed within any easement areas without the Balcones Creek Reviewer approval, which may be withheld in the Balcones Creek Reviewer sole discretion. Further, the Balcones Creek Reviewer may prohibit the removal of existing trees on portions of Lots adjacent to Common Area to the extent the Balcones Creek Reviewer deems necessary to support the purpose of the Common Area. Removal of existing trees shall mean any operation, including transplanting, which removes, uproots or renders the tree incapable of sustaining a healthy and thriving condition. The Balcones Creek Reviewer may require that any tree which, in its sole discretion, it deems to have been unnecessarily removed shall be replaced with one or more trees of a type and size approved by the Balcones Creek Reviewer. Unless the Balcones Creek Reviewer otherwise approves, an existing tree shall be replaced with trees aggregating at least the same number of caliper inches as the existing tree.

Masonry retaining walls must be approved in advance by the Balcones Creek Reviewer.

Ground cover is defined as a planting of low plants (such as ivy) that covers the ground in place of turf. Rock or stone are not acceptable for use as a ground cover other than in flowerbed or walkway areas. The use of rock or crushed rock as a ground cover shall not be permitted.

Landscape plans must include vegetative screening for above ground utility connections visible from the street or adjacent properties.

Zoysia grass should be maintained at a height of two and one-half inches. Mowing heights may need to be altered to prevent scalping in the event of an uneven grade.

Grass will be trimmed away from sidewalks, the principal residential structure, planted areas and other obstacles. It is suggested that line trimmers, mechanical edger and chemicals are employed to keep a neat, tidy appearance.

Four-inch caliper trees and shrubs should be pruned to avoid blocking clear view of signs, address marker, illumination by light fixtures, the flow of air vents and air conditioner compressors as well as pedestrian and vehicular traffic.

The Balcones Creek Reviewer reserves the right to require additional landscaping for pools, cabanas and other hardscape elements that may be constructed after completion of the principal residential structure and associated landscaping.

Hardscape elements in the landscaping must be in scale with the principal residential structure and associated structures. Sculptures and fountains are subject to approval by the Balcones Creek Reviewer.

Notwithstanding any requirements to the contrary, Owners shall comply with all applicable governmentally imposed water use restrictions and shall be granted appropriate relief from any specific requirement set forth in these Design Guidelines that cannot reasonably be complied with, as determined by the Balcones Creek Reviewer, as a result of such water use restrictions.

The Balcones Creek Reviewer may, upon the Owner's completion of the installation of landscaping, conduct an on-site inspection of the property to ensure compliance with the approved plan.

### **Lawn Furniture, Decorations, and Garden Maintenance Equipment**

Lawn furniture, including swings/chairs/benches in good repair are allowed on front porches of the principal residential structure, but must be incorporated into a landscape theme if visible from other Lots. Swings and or benches are not allowed on driveways/front lawns etc. unless specifically approved for placement by the Balcones Creek Reviewer.

One (1) birdbath of a standard size is acceptable in the rear yard of the Lot without prior written approval from the Balcones Creek Reviewer.

Notwithstanding exterior holiday decorations, plastic lawn decorations and artificial plants are not permitted, including pink flamingos, animals, or other plastic designs/statues.

Lawn mowers, edgers, wheelbarrows, etc. may not be left out in view of other Lots except when in use. Bulk/bag material (mulch, topsoil, etc.) may not be left out in view for longer than ten (10) days.

## **Irrigation**

The Balcones Creek Reviewer must approve all irrigation systems prior to installation. A Homebuilder will be exempt from this Section.

## **Drainage**

Responsibility for proper site drainage rests with the Owner. There shall be no interference with the established drainage patterns except by Declarant, unless adequate provision is made for proper drainage and such provision has been certified by a professional engineer and approved in advance by the Balcones Creek Reviewer. Each Owner is solely responsible for correcting any change in water flow or drainage caused by the construction of Improvements on such Owner's Lot.

## **Fencing**

Fencing of front yards is not permissible. Solid walls enclosing an entire site are not permitted. All Lots shall have fencing of six feet (6') in height. Fences shall be constructed of wood, finished in Behr #501 Semi-Transparent Natural Stain and approved by the Balcones Creek Reviewer. The Fence must be located ten feet (10') postern to the front elevation of the principal residential structure and no farther from the front elevation than the midpoint of the principal residential structure. In the event of any dispute or disagreement as to the location of a fence on a Lot, the decision of the Balcones Creek Reviewer, in its sole and absolute discretion, will be final.

- Wood fencing is required on all side and rear lot lines with the "good side" of the fence facing outward on the side and rear lot lines.
- Wood fences facing any right-of-way will be six feet (6') in height and wood capped on the sides facing the right-of-way. Fences along the side yard of corner lots shall not be placed closer to the public right-of-way than eight feet (8') feet from such right-of-way or eighteen feet (18') from the back of curb.

Once any Lot that contains a model home is conveyed from either the Declarant or a Homebuilder to an Owner, the fencing on such Lot must be modified to meet the fencing restrictions of this section.

## **Pools, Spas and Hot Tub Plans**

The plans and specifications for each swimming pool, spa and hot tub constructed on a Lot must be approved in writing and prior to construction by the Balcones Creek Reviewer. All applications submitted to the Balcones Creek Reviewer for the approval of plans and specifications for swimming pools, hot tubs or spas must be accompanied by the applicable city permits for the construction of same.

Any applications submitted to the Balcones Creek Reviewer, which do not include finalized construction permits from the applicable regulatory authority shall constitute an automatic rejection of the application. Above-ground, movable, or temporary swimming pools are prohibited. Each swimming pool constructed on a Lot must be entirely enclosed with a fence or similar structure which, at a minimum, satisfies Applicable Law. The location, color and style of the fence or enclosure must be approved in writing and in advance of construction by the Balcones Creek Reviewer. The Balcones Creek Reviewer may require that a swimming pool, spa and hot tub constructed on a Lot and associated Improvements be enclosed with a fence or similar structure. Approval of a swimming pool, spa and hot tub and/or associated Improvements by the Balcones Creek Reviewer will not constitute a determination by the Balcones Creek Reviewer that the swimming pool, spa and hot tub and/or associated Improvements comply with Applicable Law or that the swimming pool, spa and hot tub and/or associated Improvements are safe for use. The Balcones Creek Reviewer may require an Owner to install additional screening as a pre-condition to the approval and construction of any swimming pool, spa, or hot tub. No swimming pool, spa and hot tub shall be located in the front or side yard on any Lot. Unless otherwise approved in writing by the Balcones Creek Reviewer, if the foundation or other vertical surface of the swimming pool will extend more than twenty-four inches (24") above the final grade of the Lot, the exposed foundation or vertical surface extending more than twenty-four inches (24") above the final grade will be finished in a manner that matches the exterior masonry of the principal residential structure. Application of the terms "front yard", "side yard", "foundation or other vertical surface", and/or "final grade" as to a specific Lot will be determined by the Balcones Creek Reviewer in its sole and absolute discretion. The Balcones Creek Reviewer may adopt additional requirements for any swimming pool, spa and hot tub and/or associated Improvements on a case by case basis as a condition to approval.

Swimming pools shall be in-ground, or a balanced cut and fill, and shall be designed to be compatible with the site and the principal residential structure as determined in the sole and absolute discretion of the Balcones Creek Reviewer. Unless otherwise approved in writing by the Balcones Creek Reviewer, associated swimming pool, spa, and hot tub improvements, such as rock waterfalls and slides, shall not be over six feet (6') in height. No pool or deck may be closer than five (5) feet from any Lot line. Unless otherwise approved in writing by the Balcones Creek Reviewer, all maintenance equipment, including chemicals, plumbing fixtures, heaters, pumps, etc., associated with a swimming pool, spa or hot tub may not be visible from any adjacent street or Lot. The drains serving a swimming pool, spa and hot tub must be connected to street drainage systems. No swimming pool, spa or hot tub shall be drained onto property other than the Lot on which the swimming pool, spa and hot tub is constructed. Above ground spas and hot tubs visible from public view or from an adjacent street or Lot shall be skirted, decked, screened or landscaped in a manner which excludes pumps, plumbing, heaters, filters, etc. from view. No swimming pool, spa or hot tub will be approved unless a principal residential structure has been constructed on the Lot or the swimming pool, spa or hot tub is being constructed at the same time as the principal residential structure.

## **Basketball Goals and Sporting Equipment**

Basketball goals, or backboards, or any other similar sporting equipment of either a permanent or temporary nature shall not be placed on any Lot or street or where same would be visible from an adjoining street or Lot without the prior written consent of the Balcones Creek Reviewer.

Permanent goals must meet the following criteria:

- the metal pole must be permanently mounted into the ground to the side of the driveway in a full upright position 25' back from the curb;
- the pole, backboard and net must be maintained in good condition at all times; and
- poles may not be installed in front of the garage or facing into the street.

Portable goals will not be allowed unless the following criteria are met:

- the goal must be placed to the side of the driveway and permanently installed to be flush with the ground and maintained at all times in a full upright position 25' back from the curb;
- the pole, backboard and net must be maintained in good condition at all times;
- poles may not be installed in front of the garage or facing the street;
- landscape barrier, such as small shrubs must screen the base of the goal;
- goals may not be rolled into the street or any other public right-of-way; and
- goals may not be maintained in front of the garage or facing into the street.

The Balcones Creek Reviewer shall have the authority to establish additional guidelines for the placement and design of basketball goals, backboards, or any other similar sporting equipment and the same shall be kept and maintained out of view from any street, except in accordance with any such established guidelines.

## Playscapes and Sport Courts

Sport Courts and tennis courts are specifically prohibited on any Lot.

Playscapes or any similar recreational facilities may not be constructed on any Lot without the advance written approval of the Balcones Creek Reviewer. The Balcones Creek Reviewer may prohibit the installation of playscapes or similar recreational facilities on any Lot.

Playscapes or any similar recreational facilities must comply with all the following requirements:

- Must be located where the equipment will have minimum impact on adjacent Lots and be screened from public view.
- All playscapes or any similar recreational facilities equipment must be of earth tones colors, i.e., medium to dark greens, browns, and tans.
- Bright primary colors will not be permitted.
- Views of playscapes or any similar recreational facilities must be reduced from public streets and adjoining units whenever possible.
- Playscapes or any similar recreational facilities must not be located any closer to a property line than the established building setbacks.
- Trampolines, whether portable or non portable must be placed no closer than five feet (5') to any property line.
- Playscapes, playground equipment and trampolines are prohibited in the front yard.

If approved, portable playscapes, including but not limited to, non-permanent and/or inflatable slides, moon bounces, water parks and above ground inflatable pools or kiddy pools (collectively "**Portable Playscapes**") must be stored in a screened area, the rear of the Lot, or inside the garage when not in use.

In no event, shall any Portable Playscapes be visible from or in the front of any Owner's Lot for any period of time exceeding twenty-four (24) consecutive hours.

## **Erosion Control and Construction Regulations**

The following restrictions shall apply to all construction activities at Balcones Creek. Periodic inspections by a representative of the Balcones Creek Reviewer may take place in order to identify non-complying construction activities. If items identified as not complying with the regulations are not remedied in a timely manner, fines will be levied.

### **Erosion Control Installation and Maintenance**

It is the responsibility of each Owner to install erosion control measures prior to the start of construction and to maintain them throughout the entire construction process.

Silt fencing installed to all applicable standards is required to be properly installed and maintained to protect the low sides of all disturbed areas, where storm-water will flow during construction. The purpose of the silt fence is to capture the sediment from the runoff and to permit filtered, clean water to exit the site. The Owner should anticipate that built-up sediment will need to be removed from the silt fence after heavy or successive rains, and that any breach in the fencing will need to be repaired or replaced immediately.

If for any reason the silt fence is to be temporarily removed, please contact a representative of the Balcones Creek Reviewer prior to the removal.

### **Security**

Neither the Balcones Creek Reviewer, the Association, nor the Declarant shall be responsible for the security of job sites during construction.

### **Construction Hours**

Unless a written waiver is obtained from the Balcones Creek Reviewer, construction may only take place during the following hours: Monday through Friday from 7:00 a.m. until 7:00 p.m., and on Saturdays and Sundays from 9:00 a.m. until 6:00 p.m.

### **Noise, Animals, Children**

The use of radios, tape and CD players must be restrained so as not to be heard on an adjoining Lot or street.

Contractors and subcontractors may not bring dogs to construction sites. Contractors and subcontractors may not bring children under 16 years of age to construction sites.

### **Material and Equipment Storage**

All construction materials and equipment shall be neatly stacked, properly covered and secured. Any storage of materials or equipment shall be the Owner's responsibility and at their risk. Owners may not disturb, damage or trespass on other Lots or adjacent property.

## Insurance

The Balcones Creek Reviewer requires an Owner to procure adequate commercial liability insurance during construction naming the Association, the Declarant and the Balcones Creek Reviewer as additional insureds, in an amount to be determined, from time to time by the Balcones Creek Reviewer .

## Site Cleanliness

During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming an eyesore.

Owners shall provide a container for debris and shall clean up all trash and debris on the construction site on a daily basis. Trash and debris shall be removed from each construction site on a timely basis. Lightweight material, packaging and other items shall be covered or weighted down to prevent wind from blowing such materials off the construction site.

The dumping, burying or burning of trash is not permitted anywhere in Balcones Creek.

It is imperative that, when moving heavy equipment around, precautions be taken to prevent damage to pavement, curbs, and vegetation. Crawler tractors are not to be operated on paved or concrete surfaces. Mud, dirt and other construction debris that is tracked off site shall be cleaned on a daily basis.

## Sanitary Facilities

A temporary sanitary facility (chemical toilet) shall be provided and maintained for the use of construction workers.

## Construction Parking

Construction crews shall not park on, or otherwise use, other Lots. No construction vehicle will be permitted to leak oil or otherwise damage or deface any street located within the community.

## Schedule of Fines

Periodic inspections by a representative of the Balcones Creek Reviewer may take place in order to identify non-complying construction activities. Listed below is the schedule of fines which may be assessed.

### Schedule of Fines

|                                                             |                           |
|-------------------------------------------------------------|---------------------------|
| Premature Clearing                                          | \$500                     |
| Construction Without Balcones Creek Reviewer Approval       | \$500                     |
| Encroachment on Adjacent Properties                         | \$500 plus cost of repair |
| Violation of Rules, Restriction or Guidelines               | \$50/day                  |
| Failure to Install and/or Maintain Erosion Control Measures | \$100/day                 |
| *Greenbelt/Open Space Lot violation                         | \$500                     |

Sign Violation

\$50 per sign/incident

\*= In the event, the Association or Developer is required to repair, clean up or provide necessary service to bring the improvement into compliance, the Owner will be assessed the cost of repair, clean up, or service plus an additional 50% for time and service expended.

### **Duration of Construction**

The principal residential structure residence shall be complete and available for occupancy on or before eighteen (18) months after the commencement of construction.

### **Plan Submittals and Review Fees**

New residential home construction within Balcones Creek will utilize the process described in this section. No Improvements may be commenced until the Owner has received a written "Approval" from the Balcones Creek Reviewer.

New or Revision House-Start Balcones Creek Reviewer Application - \$50 per application

Submittal process: Current Balcones Creek Reviewer application completely filled out, plot plan attached (no plans required), and a check per application mailed or delivered to the Balcones Creek Reviewer. Revisions will be charged same as a new submittal.

Master Plans Balcones Creek Reviewer Submittal - \$500 per package

Submittal process: These packages usually occur when a builder enters a community, or changes product. All plans are to be submitted on ledger paper 11x16 or half size sets. Plans must include all elevations, roof pitch, brick/stone/stucco/siding percentages, and dimensional page for house width. Please include a submittal letter explaining the section(s) and specifics of the review. Mail or deliver the plan sets along with a check to the Balcones Creek Reviewer.

\*\*\*Plans are reviewed up front, and not at the time of build.\*\*\*

Additional/New Balcones Creek Reviewer Plan Review - \$50 per plan

Submittal process: Mail or deliver half size or 11x16 set of plans that includes all elevations, roof pitch, brick/stone/stucco/siding percentages, and a dimensional page. Include a submittal letter describing the request along with a check per each plan to be reviewed to the Balcones Creek Reviewer.

Variance Balcones Creek Reviewer Review - \$50 per variance

Submittal process: Variance request letters must include the legal address, street address, and a description of the variance, i.e. measurements, etc. Mail or deliver the letter and any supportive materials (plot plan) along with a check to the Balcones Creek Reviewer.

**ATTACHMENT 1**  
**BALCONES CREEK REVIEWER APPLICATION**

Deliver to:

Balcones Creek Reviewer c/o \_\_\_\_\_

1011 N. Lamar Blvd., Austin, Texas 78703

Phone: (512) 481-0303

Fax: (512) 481-0333

Date: \_\_\_\_\_

Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Phase: \_\_\_\_\_ Section: \_\_\_\_\_

Plan #: \_\_\_\_\_ Bedrooms: \_\_\_\_\_ Baths: \_\_\_\_\_

Address: \_\_\_\_\_

**Lot Plan Attached:** (Please Circle) Yes/No

1<sup>st</sup> Floor Masonry % \_\_\_\_\_ 2<sup>nd</sup> Floor Masonry % \_\_\_\_\_

Chimney: (Please Circle) Yes/No \_\_\_\_\_ Masonry \_\_\_\_\_ Fiber Cement

Fencing Type: \_\_\_\_\_

Stone Manufacturer  
and Color: \_\_\_\_\_

Brick Manufacturer and Color: \_\_\_\_\_

Stucco Color: \_\_\_\_\_

Roof Pitch: \_\_\_\_\_ Roof Color: \_\_\_\_\_ Year dimensional shingle

Paint Color: \_\_\_\_\_

**Fill in the information if different from color above**

Trim Color: \_\_\_\_\_ Door Color: \_\_\_\_\_

Shutters Color: \_\_\_\_\_ Garage Color: \_\_\_\_\_

Square Footage of House: \_\_\_\_\_ House Width: \_\_\_\_\_

Front Retaining Wall: (Please Circle) Yes/No Deck: Yes/No Patio: \_\_\_\_\_ square feet

Comments: \_\_\_\_\_

Builder Name/Contact Information: \_\_\_\_\_

By: \_\_\_\_\_ Approval Date: \_\_\_\_\_

ATTACHMENT 1

BALCONES CREEK  
DESIGN GUIDELINES

Doc# 20140100203  
# Pages 22  
06/16/2014 2:08PM  
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Official Public Records of  
BEXAR COUNTY  
GERARD C. RICKHOFF  
COUNTY CLERK  
Fees \$106.00

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COUNTY OF BEXAR  
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*Gerard C. Rickhoff*