

Revised 12/20/06, 1/26/07, 2/13/07, 7/25/09, 9/10/10, 4/17/15, 8/14/2016, 11/01/2018, and ***04/20/2020*** (*Latest revisions are in italics*)

April 20, 2020

To: Kohala by the Sea Owners

Subject: Design Rules

Attached are the latest revisions to the KBS Design Rules. This is provided to keep all owners current on Design Requirements. *The latest changes are in italics.*

Note that the Design Requirements apply to all lots in Kohala by the Sea.

*In summary the following updates were made in this April 2020 revision and become effective May 1, 2020.*

*Page 2: 'Cesspool' removed from Sewage Disposal section B.(2). Cesspools are no longer allowed by the county as of March 31, 2016 for new construction and require replacement on existing cesspools by 2050.*

*Page 4: B.(8) Site Grading updated to specify keeping roadways clean of tracked silt or mud during site improvement or construction.*

*Page 9: "Crushed stone" removed from Driveways section C.(11).*

*Updated Design Rules to include the 9-25-2019 Appendix 1. Fine Enforcement Policy.*

*Updated Design Rules to include the 4-02-20 Appendix 2. Firewise Summary Information.*

*Updated Design Rules to include the 4-01-20 Appendix 3. Permissible maximum building height chart. No changes were made to the data of unbuilt lots.*

Please replace the Design Rules in your possession with these revised Rules.

For the Board of Directors,  
Associa Hawaii

Agent for Kohala by theSea

Dominic Yagong, Senior Community Association Manager

cc. KBTS Board; KBTS Design Review Committee

**KOHALA BY THE SEA DESIGN REQUIREMENTS Page 1**  
**REVISED April 20, 2020**

The following design and construction requirements (the Design Requirements) are hereby established and adopted by the Kohala By the Sea Design Review Committee (the Design Committee) pursuant to Section 5.04 of the Declaration of Covenants, Conditions and Restrictions for KOHALA BY THE SEA dated May 14, 1990, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1731526 as the same may be amended from time to time (the "Declaration"). **The revisions made effective as of May 1, 2020 are in *italics*.**

Except as otherwise specifically provided herein, the terms used in these Design Requirements shall have the meanings given to them in the Declaration.

The use of each lot in the Development and the rights of each owner of a lot in the Development shall be subject to these Design Requirements and the Declaration.

**A. GENERAL PROVISIONS**

(1) Design Review Committee Approval Required. Except as otherwise provided in the Declaration, no new improvement may be constructed nor may any existing improvement be altered on any lot, except in accordance with plans, specifications and other materials (the plans) submitted to and approved by the Design Committee, and in accordance with these Design Requirements.

(2) Public Regulations. Each lot owner is responsible for being informed of and complying with the appropriate federal, state and county laws, rules, regulations, codes and ordinances which are applicable to the owner's property. If a standard set forth herein differs from standards established by the various regulating agencies, the stricter standard shall apply.

(3) Land Use and Building Type. All owners of lots in the Development shall comply with the use restrictions and construction standards contained in Sections 3.02 and 3.03 of the Declaration.

(4) Variances. The Design Review Committee may grant variances from these Design Requirements as to any one or more individual lots. The Design Review Committee may only grant variances from the requirements of the Declaration to the extent permitted under Section 5.06 of the Declaration.

## **KOHALA BY THE SEA DESIGN REQUIREMENTS      Page 2**

### **A. GENERAL PROVISIONS (cont.)**

(5) Applicable Law, Government Regulations, and Building Codes. All proposed improvements shall comply with all applicable laws, government regulations and building codes.

### **B. SITE IMPROVEMENT STANDARDS**

(1) Utilities. Except as otherwise provided in the Declaration, all utilities within a lot shall be placed underground. All utilities between the service poles installed by Declarant at or along road rights-of-way and a lot shall also be underground. Electric meters and panels containing such meters shall, if located at the front boundary of a lot, be placed at locations and on walls or panels of such design and materials approved by the Design Committee. Utility meters visible from the street or neighboring properties shall be landscaped and/or faced with rock, and shall be shown on submittal drawings.

(2) Sewage Disposal. No outside toilet shall be constructed on any lot. All plumbing fixtures, toilets or sewage disposal systems shall be connected to a septic tank, or other sewage system approved by the appropriate governmental authorities. [Declaration, Section 3.03(f)].

(3) Propane Gas. Propane gas tanks shall be located in vaults, behind walls, or screened from view from neighboring properties and streets with a fence or wall and shall not be located within the setback areas. Owners must conceal the tanks to comply with gas company requirements. Variances may be allowed by specific approval of the Design Review Committee.

(4) Drainage. No owner shall construct, or permit to be constructed on their lot any improvement which will create a problem of flooding, erosion, or interference with natural water flow or original runoff pattern, damaging to such lot, the common areas, or adjacent properties, nor shall any owner fail to reasonably act so as to minimize runoff damage or interfere with the natural flow of surface waters. Each owner shall provide for the installation of necessary culverts, dry wells, area drains and drainage facilities upon the owner's lot, and for keeping the culverts and drainage facilities in good repair. Water catchment systems shall not be permitted except for fifty- five (55) gallon or smaller containers used to collect rain water to be used for landscape irrigation only.

**B. SITE IMPROVEMENT STANDARDS (cont.)**

(4) (cont.) Each owner shall keep all the drainage facilities and culverts so installed on the owner's lot, as well as any other drainage facilities and culverts located on the owner's lot, free and unobstructed.

(5) Required Setbacks. The required front and rear yard setbacks shall be (30) feet and the side yard setbacks shall be twenty (20) feet from the respective boundaries of each lot. In the case of flag lots and corner lots, thirty (30) foot front and rear yard setbacks and twenty (20) foot side yard setbacks shall be required as provided in Chapter 25 of the Hawaii County Code. The Design Review Committee has establish building envelopes on each lot, which may impose additional restrictions on the location of buildings or structures on the lot and each applicant and Owner should consult such building envelopes prior to plan submittal. [Declaration, Section 3.03(d)].

The Design Review Committee has adopted a plan showing building envelopes for lots in the Development which may be subject to revision from time to time. The Design Committee may approve the construction of buildings or structures or portions of buildings or structures outside of building envelopes where such construction will not significantly interfere with ocean views from sites within building envelopes on other lots in the Development upon application for a variance by the Owner. If there are conflicting building envelopes, the decision of the Design Review Committee resolving such a conflict shall be final.

(6) No building, patio, fence, wall or other improvement except (i) a fence or wall not more than seventy-two (72) inches in height; (ii) landscaping; or (iii) driveways and walkways shall be placed in whole or in part upon or over any portion of any lot which is designated as a setback area.

No paving, except for paving of driveways, and no storage or other use of the front yard setback area shall be permitted, except that the setback area may be landscaped. No walls may be erected or placed within the first fifteen (15) feet of a setback area along any road. [Declaration, Section 3.03(d)]. Pools must be fenced to meet Hawaii County requirements.

(7) Building Height. The maximum building height for any building, structure or other improvement (including landscaping) constructed or placed on a lot, shall be twenty feet (20') above the existing grades within the buildable area (as shown on the Development Grading Plan) where the maximum slope of the buildable area is less than fifteen percent (15%);

**B. SITE IMPROVEMENT STANDARDS (cont.)**

(7) Building Height (cont.). twenty-five feet (25') above the existing grades where the maximum slope of the buildable area is more than fifteen percent (15%) but less than thirty percent (30%); and thirty feet (30') above the existing grades where the maximum slope of the buildable area is greater than thirty percent (30%). See attached Building Height Limits for varying Sloped Lots. Note that Slope is used to determine building height.

The elevation of the slab is generally determined by resort to the median of the highest and lowest points within the building envelope utilizing the formula for determining slope, and will be considered to be the existing grades; this formula may be adjusted where the particular area of the proposed slab contains unusually steep contours and an adjustment will better serve to carry out the standards of review. The calculation is as follows:

$$\frac{\text{Maximum elevation} + \text{minimum elevation}}{2} = \text{slab elevation.} \quad \text{See Appendix 3.}$$

The Design Review Committee requires that a benchmark be located within the building envelope at the slab elevation, but not in an area where the slab will be poured. It shall be clearly marked and left undisturbed until the slab is poured. Further, the DRC requires that the elevation of the slab be certified by a licensed surveyor, and that survey shall be kept in the records of the DRC until the final inspection of the home is complete. This work shall be done at the expense of the owner.

(8) Site Grading. Grading shall be kept to a minimum and shall be blended with the natural contours of the lot. Excavation cuts shall not exceed ten feet (10'). Filled areas in excess of six feet (6') shall be step-terraced with a minimum horizontal step of four feet (4'). Surplus material may not be stockpiled or stored beyond the 12-month construction period. The Design Review Committee may require retaining walls, at their discretion, in cases where fill exceeds six feet and the slope of the lot is sufficiently steep to destabilize the fill. Where the proposed grading on any lot requires a permit from the County of Hawaii or a conservation plan approved by a Soil and Water Conservation District, a copy of the permit or approval shall be delivered to the Design Review Committee prior to the commencement of grading work or improvement on the lot.

Each owner shall control the emission of dust and other airborne particles while performing any grading, grubbing or fill work on any lot, so as to minimize the inconvenience and annoyance to other lot owners, both during site preparation and subsequent construction. Each owner shall also provide erosion and mud control measures as necessary to prevent silt or mud from being washed or tracked from the property. *Roadways shall be routinely washed of any tracked silt or mud during site improvement or construction.* All such steps and preventative efforts shall comply with current rules of the State of Hawaii Department of Health and such other statutes, rules or regulations as may be adopted.

**B. SITE IMPROVEMENT STANDARDS (cont.)**

(9) Dwelling Requirements. Each single family dwelling erected on a lot in the Development shall have a total floor area of not less than two thousand (2000) square feet, exclusive of lanais, porches, patios, garages, exterior stairways and landings; provided, however, that if a single family dwelling is financed by means of a Farmers Home Administration (FHA) loan, the maximum permissible sized dwelling under the FHA 1000 program will be permitted. Each single-family dwelling shall be single story unless split-level or two-story construction is specifically approved for that lot by the Design Committee.

(10) Construction Schedule. Except for improvements in the nature of landscaping, every improvement constructed on a lot, once construction is begun, shall be completed within twelve (12) months or such other time period (longer or shorter) as may be specifically permitted or imposed by the Design Committee. Improvements not completed within such time period, improvements for which construction is interrupted for ninety (90) days, and improvements partially or totally destroyed and not rebuilt within such time period shall be deemed nuisances. The time for completion of any construction, repair or rebuilding shall be extended for a period of time equal to the number of days during which construction is prevented or unreasonably interfered with because of strikes, lockouts, embargoes, unavailability or shortages of labor or materials, wars, insurrections, rebellions, acts of God or other causes beyond the owner's reasonable control (financial inability excepted).

(11) Landscaping Planting. Within twelve (12) months after completion of construction, the owner shall complete the installation of the landscape planting, including appropriate irrigation as approved by the Design Review Committee. Landscape planting shall be located throughout the buildable area and into the setbacks totaling twenty percent (20%) of the entire lot area. To better preserve makai views, landscape planting with a mature height exceeding six feet (6') within the setback areas, shall be permitted by specific approval of the Design Committee. Further, certain trees known to grow in excess of 20 feet high are prohibited, including Ficus, Banyan, and Monkeypod trees and others to be determined by the DRC. The maximum height allowed for any planting is 20 feet, except for palm trees, which have no height limit. For new construction, the Design Review Committee will disallow any of the above named trees, and any other variety known to impede ocean (makai) views. If such trees are planted, and not approved by the DRC, they must be removed at the owner's expense within 30 days of notification.

**B. SITE IMPROVEMENT STANDARDS(cont.)**

**(11) Landscaping Planting (cont.)**

Note: The CC &R's stipulate that we may not, in general, block neighbor's ocean views and so, there may be instances where trees 20 feet in height may block views and may have to be trimmed to lower levels or removed. (Declaration Section 3.03(m))

**(12) Mechanical Equipment and Trash Enclosures.** Mechanical equipment and trash receptacles shall be screened with a fence or wall and may not be located within the building setback area. Equipment noise, measured at the complainant's property line, shall be mitigated with sound attenuation adequate to reduce the noise level below 60 decibels. Testing shall be performed by an acoustical engineer or other professional at the expense of the complainant.

**(13) Utility Sleeves.** Installation of a four-inch (4") utility sleeve at the common area beneath the driveway apron (connecting street and driveway) shall be required. The installation of a four-inch (4") utility sleeve beneath the driveway six feet (6') into the lot from the driveway apron shall be encouraged for the owner's personal use.

**(14) Off-Street Vehicle Storage.** Permanent or routine storage of vehicles, exclusive of in a garage, is limited to two (2) vehicles. "Garage" is defined as a vehicle storage structure fully enclosed with a garage door.

**(15) Lumber and Exposed Structural Posts.** All non-dimensional exterior lumber, on trim or posts, which are not from a certified mill, must be approved by the Design Review Committee. The minimum size for any exposed structural posts will be 6" x 6" nominal.

**(16) Firewise Construction Guidelines.** The Design Review Committee adopted the National Firewise Committee guidelines. Firewise information will be distributed by the Design Review Committee to owners, or displayed on a bulletin board within the community, or is available from the Firewise Committee chair.

**C. ARCHITECTURAL STANDARDS**

**(1) Architectural Character.** The purpose of the Design Requirements is not to create look-alike residences, but to promote harmonious and compatible design and to protect and enhance property values throughout the Development. In so doing, Kohala by the Sea shall set an architectural ....

C. ARCHITECTURAL STANDARDS (cont.)

(1) Architectural Character (cont.).

...character that is appropriate to Hawaii, that has a sensitivity to the blending of Hawaii's architectural forms and environment, complementing rather than dominating, architecture that is designed with consideration to the site, the sun, the wind, and the views, that blends the interior to the exterior with wide lanais and generous roof forms and eaves, constructed of natural materials; architectural character that is Hawaii.

Geodesic domes, A-frames, kit type construction and panelized homes are prohibited. Limited period and regional type designs shall be allowed by specific approval of the Design Review Committee.

(2) Materials. The materials used for structures shall be new and of a quality consistently associated with that used in quality buildings. All building materials shall be installed in a neat and workmanlike manner, consistent with generally accepted construction practices. No used buildings shall be placed on any lot, nor shall any used lumber or materials be a part of the construction of any improvement. Notwithstanding the generality of the foregoing, however, aged materials may be used in the construction of improvements to achieve a desired aesthetic effect with the approval of the Design Review Committee.

(3) Foundation and Support Structure. Perimeter exterior siding material shall extend to grade (except as required by Hawaii County building codes). Open, exposed under floor structure or skip sheathing shall not be permitted. Exterior walls shall be supported by continuous perimeter concrete foundation footing. Post and pier supports at exterior perimeter walls are prohibited. Exposed foundation sections shall be coated to match exterior colors.

(4) Exterior Walls. The building material of the exterior walls of all dwellings shall be wood, masonry, stucco or composite materials by specific approval of the Design Committee. No bare wood shall be exposed.

All exterior surfaces of all improvements shall be in neutral or earth shades. Colors used shall be subdued to compliment and blend with the surrounding natural landscape and environment. Samples of exterior colors shall be submitted to the Design Review Committee for review and approval. Plywood siding shall be allowed when all joints are concealed with boards or



C. ARCHITECTURAL STANDARDS (cont.)

(4) Exterior Walls (cont.).

battens with a minimum size and spacing of 1 x 3 at 16" on center. Walls in excess of twelve feet (12') high shall be broken and interrupted with vertical offset or an intervening lanai or veranda. All exterior elevations shall have a minimum of two (2) wall planes. Exterior walls paralleling the building setback lines (without offset or undulation) shall not be allowed.

(5) Roofs. Roofs shall be of ceramic or concrete tile, slate, high relief fiberglass reinforced composite shingle, (Celotex Presidential Series with 1/2" shadow line or equal), architectural standing seam metal in dark color shades, copper, or other materials by specific approval of the Design Committee. Corrugated metal roofs are specifically prohibited. Wood shake roofs are not allowed because of their flammability. In addition to corrugated metal roofs, shed, straight gable and mansard roofs are also not permitted. Full hip or hip and gable combination roofs are encouraged. All re-roofing applications must adhere to Firewise construction guidelines. Flat roof sections are permitted on a case-by-case basis as long as such areas do not exceed 25% of total roof area.

Single pitch roofs shall have a minimum pitch of 4 in 12 and a maximum of 8 in 12. The lower portion of a double-pitch roof shall have a minimum pitch of 3 in 12 and a maximum of 4 in 12. The upper portion of a double-pitched roof shall have a minimum pitch of 6 in 12 and a maximum of 8 in 12. Flat roofs shall be permitted only by specific approval of the Design Review Committee.

Main structure roofs shall have a minimum of six (6) planes. Detached accessory structures shall have a minimum of four (4) planes. The minimum of roof eave overhang from structural walls or support shall be forty inches (40").

(6) Solar Heating Systems. Roof panels for solar heating systems should be sited so as to minimize their visibility from the roads and adjacent lots within the Development. All such roof panels shall be mounted in a plane parallel to the plane of the roof and shall be subject to review and approval by the Design Committee. Refer to the rules and guidelines adopted for solar energy devices concurrently with the April 2015 revisions.

C. ARCHITECTUAL STANDARDS (cont.)

(7) Glare Prevention. No highly reflective finish, other than glass (which, however, may not be mirrored), shall be used on exterior surfaces, including without limitation, roofs, exterior walls, retaining walls, doors, trim, fences, pipes, permanent outdoor equipment, mailboxes and newspaper tubes.

(8) Chimneys. Chimneys are permitted but shall be subject to the review of the Design Review Committee in regard to height material, color, spark arrestor and appearance.

(9) Parking Requirements. Each single family dwelling constructed on a lot shall have as an accessory thereto a garage large enough to accommodate at least two (2) automobiles. In addition, two (2) guest parking spaces shall be provided on each lot. [Declaration Section 3.03(c)].

(10) Abandoned Construction. If construction of a dwelling or any other improvement is at any time abandoned, the lot owner shall cause the lot to be cleared and returned to its original condition until recommencement of construction, except that landscaping and other features which, in the opinion of the Design Review Committee, are an asset to the appearance of the property, shall be left in place.

(11) Driveways. Driveways shall use asphalt or concrete pavement, or other materials approved by the Design Review Committee, provided that the portion of the driveway between the road pavement and the front yard setback of any lot shall be paved with either asphalt or concrete. Other paving material may be approved by the Design Review Committee on a case-by-case basis.

(12) Exterior Lighting. Exterior light sources including landscape and exterior house lighting shall not have bulbs visible from neighboring properties and streets. Lighting shall be canopy type garden and up/down wall sconce lighting or other by specific approval of the Design Review Committee. Lighting for tennis, basketball court and other recreational facilities is prohibited. Pool and spa lighting shall be permitted.

(13) Chain Link Fences. No chain link fencing shall be permitted, except where approved by the Design Review Committee for minor installations, such as dog runs. Such installations shall not be visible from neighboring lots and roadways.

C. ARCHITECTUAL STANDARDS (cont.)

(14) Agriculturally Related improvements. All agriculturally related improvements shall be subject to special review as to placement on the lot, materials used and design with respect to the functional nature and use of such improvements. The architectural design requirements of materials, roofs and exterior walls for such improvements may be modified by the Design Committee where appropriate for the intended and actual agricultural use. Floriculture or nursery structures may, for example, utilize shade cloth material for the roofs or sides; equipment, storage and processing structures may be partially enclosed or utilize metal siding or roofing materials provided such structures incorporate other design features and color finishes to enhance their visual appearance, are not open to road view, blend with the surrounding landscape, are maintained in good repair and condition and are used for continuous, full time agricultural purposes. The Design Review Committee may require special landscaping or screening, where appropriate for agriculturally related improvements. These modifications as to materials for agriculturally related improvements shall not apply to any single-family dwelling, guesthouse or garage used in connection with such dwelling or guesthouse.

(15) Skylights visible from neighboring properties and streets shall be tinted.

D. REQUIREMENTS AND PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS

(1) Pre-Design / Conceptual Design Meeting. Upon completion of the Application for Construction of improvements, the topographical plan, and payment of Design Review fee, the owner's architect may meet with the Association Architect to review the Design Requirements and submittal procedures and review freehand conceptual design diagrams or sketches.

(2) Submittals and Fees. A non-refundable review fee of \$1800 is required to accompany the Application for Construction of improvements prior to scheduling the Pre-Design Meeting. Review costs in excess of \$1800 shall be borne by the Applicant. The review fee for additions, renovations or other similar type of proposed construction will be based on the current hourly rate charged by the Design Review Committee and/or their representative. Additionally, a separate refundable deposit of \$2000 is also required at the time the review fee above is paid. The refundable deposit will be held until all County and DRC final inspections are completed. The deposit less any deductions for Association costs or expenses will be refunded within 30 days of completion of inspections. A separate check shall be submitted for this deposit.

## **KOHALA BY THE SEA DESIGN REQUIREMENTS      Page 11**

### **D. REQUIREMENTS AND PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS (cont.)**

#### **(2) Submittals and Fees (cont.)**

Any submittal for an additional improvement, renovation of an existing dwelling, or similar type of proposed construction as required by the Declaration that was not included in the original submittal (such as accessory buildings, pool, guest house, studio, etc.) will incur a minimum non-refundable submittal fee of \$350. Two (2) CD (compact disc) copies of all drawings for new building, grading, or other improvement within the development shall be submitted to the Association Management Company, along with an email of the plans, drawings and appropriate forms. The Design Review Committee reserves the right to request a hard copy of preliminary and/or final plans.

Architectural drawings shall be prepared by an architect licensed to do business in Hawaii. All submitted plans must be stamped and signed by their respective licensed architect, structural, civil, and mechanical license holder on every page including date of license expiration. Grading plans shall be prepared by a civil engineer or land surveyor. Structural, mechanical, and electrical engineering drawings shall be prepared by that respective engineering discipline. Landscape drawings shall be prepared by a landscape architect or landscape contractor. All of the above shall be professionally licensed in the State of Hawaii. All homes built in the Development shall be constructed by a Hawaii licensed general contractor.

#### **(a) Preliminary Submittal: (to Association Architect and Design Review Committee via Management Co.)**

(i) Plot Plan with buildable area indicated, showing all structures with roof plans, utilities, service area, fences and walls, paved and parking areas, height elevations of the improvements, north arrow and prevailing wind direction(s). 1/20" scale min.

(ii) Grading Plan showing structures, with existing and proposed finish grades, contours and elevations. 1/20" scale min. Plans submitted must bear the stamp of a Hawaii-certified civil engineer and include notation of the required compaction of material whether or not imported.

(iii) Floor Plan(s) showing layout, dimensions and area(s). 1/8" scale min.

(iv) Building Section showing the structural elements, existing and finish grades and the maximum building height envelope. 1/8" scale min.

(v) Exterior Elevations: showing two (2) exterior elevations with all material indicated. 1/8" scale min.

## **KOHALA BY THE SEA DESIGN REQUIREMENTS    Page 12**

### **D. REQUIREMENTS AND PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS (cont.)**

(b) Final Submittal: (to Design Review Committee via Management Co.)

(i) Plot Plan with buildable area indicated, showing all structures with roof plans, utilities, service area, fences and walls, paved and parking areas, height elevations of the improvements, north arrow and prevailing wind direction(s). 1/20" scale min.

(ii) Grading Plan showing structures, with existing and proposed finish grades, contours and elevations. 1/20" scale min. Plans submitted must bear the stamp of a Hawaii-certified civil engineer and include notation of the required compaction of material whether or not imported.

(iii) Floor Plan(s) showing layout, dimensions, area(s), 1/4" scale min.

(iv) Building Section(s) showing the structural elements and dimensions, and maximum building height envelope. 1/4" scale min.

(v) Exterior Elevations: showing four (4) exterior elevations with all material indicated. 1/4" scale min.

(vi) Landscape Plan: showing all landscape planting, irrigation and landscape lighting. 1/16" scale min.

(vii) Specifications of all exterior materials.

(viii) Exterior color scheme/product brochures or cut sheets. Other items as required by the Design Committee from time to time for review of a specific project.

Post Final Approval Modifications Any design modifications following final design approval shall be submitted to the Design Committee in writing for review and approval prior to constructing modifications.

Performance Bond The Design Review Committee, in connection with final approval, may require, at their sole discretion, a payment and/or performance bond for the construction, naming the KBS Homeowner's Association as co-obligee.

### **(3) Inspections.**

(a) Pre-grading- by surveyor

(b) Pre-foundation- by civil engineer (before form boards)

**D. REQUIREMENTS AND PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS (cont.)**

- (c) Certification of Slab Elevation (with form boards, before concrete poured). The Design Committee or representative shall make a site inspection to confirm construction conformance with the approved final drawing submittal. As noted in B.(7) above, the DRC requires that the elevation of the slab be certified by a licensed surveyor, and that survey shall be kept in the records of the DRC until the final inspection of the home is complete.
- (d) Verification of roof height (upon placement of trusses)- by Association Architect and Design Review Committee member
- (e) Final Inspection Approval (after Final County Inspection)-upon substantial completion of the home or auxiliary building, including swimming pools, etc., the Association Architect and DRC Chairman shall make a final site inspection to confirm construction conformance with the approved final drawing submittal. Notification of required site inspections by the Association architect is the responsibility of the owner. Only in-ground pools are permitted.
- (4) Waiver for Agriculturally Related Improvements. The Design Committee may waive or modify any or all of the requirements for plans, under subsection C.(14) above, for any agriculturally related improvement to be erected on a lot. This provision for waiver or modification of the requirements for plans shall not apply to any single-family dwelling, guest house or garage to be used in connection with a single family dwelling or guest house.
- (5) Review of Plans. The Design Committee shall review and act on the plans submitted as provided within the Declaration, within the 30 day time limit stated in the Declaration. The review process does not begin until the complete submittal is received by the Design Review Committee.
- (6) Standards of Review. In reviewing plans submitted to it, the Design Committee shall consider whether the plans conform to any applicable Design Requirements, and the effect of the proposed building, landscaping, grading, or other improvement on the Development. The approval or disapproval of the plans by the Design Committee in any one case shall not be deemed a waiver by the Design Committee of its right to approve, disapprove, object to or consent to any of the features or elements embodied therein when the same features or elements are embodied in plans submitted in any other cases.
- (7) Revocation of Design Committee Approval: Inspection of Work by Design Review Committee. Failure to commence construction within one hundred eighty (180) days from the date of approval of plans by the Design....

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### **D. REQUIREMENTS AND PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS (cont.)**

(7)(cont.).....Committee, cessation of work being performed pursuant to approved plans for a continuous period of ninety (90) days or more, or failure to complete the proposed work strictly in accordance with the plans approved by the Design Committee, shall operate to automatically revoke the approval of plans previously approved by the Design Committee. Upon demand by the Design Committee, the lot upon which such construction, alteration or other work was undertaken shall be restored or caused to be restored by the lot owner as provided in paragraph C.(10) above. The Design Committee and its duly appointed agents may enter upon any lot at any reasonable time to inspect the progress or status of any construction, alteration or other work being performed on the lot.

(8) Professional Advice. The Design Review Committee may employ the services of an attorney, architect, landscape architect, or civil or structural engineer licensed to practice in the State of Hawaii or any other consultant to render professional advice, and may pay a reasonable compensation for such services, which compensation may be charged to any person who has submitted plans requiring review by such attorney, architect, engineer or other consultant, in addition to any other processing fee. The Design Review Committee will only review plans presented by a lot owner. Any such costs or expenses may be deducted from fees held under Section D.(2) above.

(10) Approved Plans. When a house plan is approved and the lot owner sells the lot with the approved plans:

(a) Construction must start within 180 days from the date of approval and this time passes without a break in sequence from buyer to seller or plan approval is revoked.

(b) Cessation of work for a continuous period of 90 days or more, continuing without break in sequence from seller to buyer, will result in revocation of previously approved plans.

(c) Work must be strictly in accordance with the approved plans. No adjustment, additions, removals, or alterations of any kind are permitted. Failure to comply with (a), (b) or (c) allows the Design Review Committee all rights and remedies in connection therewith. Under the above buyer to seller circumstances, whether construction has started or not, if the current owner wants to make any changes as listed in the Declaration, Section 7, Paragraph 3, the plans must be resubmitted to the Design Review Committee. A fee of \$350 is charged for the re-submittal and the 180 days or 90 days time requirement continue to apply during this time without a break.

**D. REQUIREMENTS AND PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS**

E. **REMEDIES** In the event that any lot owner fails to comply with the Declaration or any of these Design Requirements, the Design Review Committee shall have available to it all of the rights and remedies described in the Declaration, including without limitation the following:

(1) **Enforcement Costs.** Lien Rights. If any court proceedings are instituted in connection with the right of enforcement or the remedies provided in these Design Requirements or the Declaration, the Design Committee shall be entitled, in the event that it prevails in such proceeding, to recover its costs and expenses in connection therewith, including reasonable attorneys' fees and court costs.

The Design Committee shall have a lien against an owner's lot for any unpaid fees, compensation or other charges for which such owner is obligated under these Design Requirements or the Declaration to pay to the Design Committee. Such lien shall be enforceable in the manner provided by the Declaration. Pursuant to its authority under §7.02(e) or §7.04 of the Declaration, the Design Committee and the Association may determine that such unpaid fees, compensation or other charges are maintenance or special assessments for which a lien may be recorded against the affected lot.

The rights and remedies provided for in this section are cumulative with all other rights and remedies available to the Design Committee under these Design Requirements, the Declaration and at law and in equity.

(2) **Notice of Nonconformance.** The Design Review Committee may record a notice of nonconformance against an owner's lot if improvements have not been approved, if any approval has been revoked, if any improvement has not been completed in accordance with approved plans, if any improvement has not been completed within the appropriate time period, or if any improvement has not been maintained in conformity with these Design Requirements, including the building and landscaping.

(3) **Fines for Violations.** In accordance with Kohala by the Sea fines policy latest revision. (see Appendix 1)

EFFECTIVE AS OF the **1st day of May 2020**

***Dean Bowman***

Chair, Design Review Committee

cc. Board members, DRC members



Kohala By The Sea      11/1/2018  
Design Committee

**APPLICATION FOR CONSTRUCTION OF IMPROVEMENTS - PART I**  
**(Submit at Pre-Design/Conceptual Design Meeting)**

As provided in the Kohala By Sea Declaration of Covenants, Conditions and Restrictions (CC&R's), the Design Committee exists to maintain high standards for the development, design, and use of the property. This four-part package consists of the Application for Construction of Improvements, the Pre-Design Meeting Checklist, the Preliminary Submittal Checklist, and the Final Submittal Checklist, and is required by the Design Committee to confirm proposed improvements are in compliance with the Kohala By The Sea Design Requirements. Each completed part shall be submitted at or with the appropriate meeting or submittal. Please call Associa Hawaii at (808) 443-5961 if you have questions.

Property Owner(s): \_\_\_\_\_ Lot # \_\_\_\_\_

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

Telephone / Fax:      (    ) \_\_\_\_\_ (    ) \_\_\_\_\_

Architect / License No: \_\_\_\_\_

Telephone / Fax:      (    ) \_\_\_\_\_ (    ) \_\_\_\_\_

Civil/Surveyor / Lic. No: \_\_\_\_\_

Telephone / Fax:      (    ) \_\_\_\_\_ (    ) \_\_\_\_\_

Contractor / License No: \_\_\_\_\_

Telephone / Fax:      (    ) \_\_\_\_\_ (    ) \_\_\_\_\_

Proposed Improvements: \_\_\_\_\_

Improvement Areas: \_\_\_\_\_

Owner's signature\*: \_\_\_\_\_

Architect's Signature: \_\_\_\_\_

\*By signing the above the Owner(s) acknowledges and agrees that they have read, understand and will comply with the Kohala By The Sea CC&Rs and Design Rules; these can be found in the [Kohalabythesea.net](http://Kohalabythesea.net) website or at our property managing agent, Associa Hawaii in Kailua-Kona.

Kohala By The Sea  
Design Committee

05/01/2020

**PRE-DESIGN/CONCEPTUAL DESIGN MEETING CHECKLIST -- PART II**  
**(Submit at Pre-Design/Conceptual Design Meeting)**

The owner's architect shall schedule a Pre-Design Meeting with the Design Committee or representative. The purpose of this meeting is to review the Design Requirements, submittal procedures and review design concepts. Call Associa Hawaii at (808) 443-5961 to schedule. Submit the following at this meeting (**check items to indicate inclusion or note NA if not applicable**):

\_\_\_\_\_  
**Owner/Lot No.**

\_\_\_\_\_  
**Date**

- \_\_\_\_ 1. Completed Application for Construction of Improvements
- \_\_\_\_ 2. Check for the Review Fee in the amount of \$1,800.00\*
- \_\_\_\_ 3. Check for the Refundable Deposit in the amount of \$2000.00\*
- \_\_\_\_ 4. Site Plan (1/20") w/ 2' grade intervals keyed to Subdivision benchmarks

*\*Checks to be made payable to: Kohala By The Sea, the lot number to be written in the Note section of the checks.*

Kohala By The Sea 11/1/2018  
Design Committee

**PRELIMINARY SUBMITTAL CHECKLIST -- PART III**  
**(Submit at Preliminary Design Submittal)**

The owner's architect shall make Preliminary Submittal to the Design Committee. The purpose of this submittal is for the Design Committee to confirm the design is developing in conformance with the Kohala By The Sea Design Requirements and Declaration of Covenants, Conditions, and Restrictions. Submit to Associa Hawaii, 75-169 Hualalai Rd., Kailua-Kona, Hawaii, 96740. Call (808) 443-5961 if you have questions. **Two copies** of the following shall be included (**check items to indicate inclusion or note NA if not applicable**):

\_\_\_\_\_  
**Owner/Lot No.**

\_\_\_\_\_  
**Date**

Site Plan - including:

- \_\_\_\_ 1. Minimum scale: 1/20" = 1' - 0"
- \_\_\_\_ 2. Building location (all structures)
- \_\_\_\_ 3. Property boundary lines and dimensions
- \_\_\_\_ 4. Existing tree locations (if any)
- \_\_\_\_ 5. Utility routings
- \_\_\_\_ 6. Service areas/equipment locations
- \_\_\_\_ 7. Driveway, parking, paving and walkway locations
- \_\_\_\_ 8. Fences/walls locations
- \_\_\_\_ 9. Height of all structures, fences/walls
- \_\_\_\_ 10. North arrow, primary view and wind directions
- \_\_\_\_ 11. Pool and spa locations (if any)
- \_\_\_\_ 12. Building setbacks and easements
- \_\_\_\_ 13. Waste water system location

Grading Plan (or include with Site Plan) - including:

- \_\_\_\_ 1. Minimum scale: 1/20" = 1' - 0"
- \_\_\_\_ 2. Topography - existing and finish grade contours at 2' intervals

Floor Plan(s) - including:

- \_\_\_\_ 1. Minimum scale: 1/8" = 1' - 0"
- \_\_\_\_ 2. Walls and partitions
- \_\_\_\_ 3. Doors and windows
- \_\_\_\_ 4. Stairs
- \_\_\_\_ 5. Room names
- \_\_\_\_ 6. Dimensions
- \_\_\_\_ 7. Areas (interior/garage/lanai)

Building Section - including:

- \_\_\_\_\_ 1. Minimum scale:  $1/8'' = 1' - 0''$
- \_\_\_\_\_ 2. Roof, wall, partition, floor and decks

- \_\_\_\_\_ 3. Dimensions
- \_\_\_\_\_ 4. Exterior materials
- \_\_\_\_\_ 5. Existing and finish grades
- \_\_\_\_\_ 6. Building height limit

Exterior Elevations (minimum 2) - including

- \_\_\_\_\_ 1. Minimum scale:  $1/8'' = 1' - 0''$
- \_\_\_\_\_ 2. Exterior features (roofs, walls, door/windows, decks/railings)
- \_\_\_\_\_ 3. Materials and finishes
- \_\_\_\_\_ 4. Building height limit

Kohala By The Sea  
Design Committee

**FINAL SUBMITTAL CHECKLIST -- PART IV**  
**(Submit with Final Submittal)**

The owner's architect shall make Final Submittal to the Design Committee. The purpose of this submittal is for the Design Committee to confirm the final design is in conformance with the Kohala By The Sea Design Requirements and the Declaration of Covenants, Conditions and Restrictions. Submit to Associa Hawaii, 75-169 Hualalai Rd., Kailua-Kona, Hawaii, 96740. Call (808) 443-5961 if you have questions. **Two copies** of the following shall be included **(check items to indicate inclusion or note NA if not applicable)**:

\_\_\_\_\_  
**Owner/Lot No.**

\_\_\_\_\_  
**Date**

Site Plan - including:

- \_\_\_\_ 1. Minimum scale: 1/20" = 1' - 0"
- \_\_\_\_ 2. Building location (all structures)
- \_\_\_\_ 3. Property boundary lines and dimension
- \_\_\_\_ 4. Existing tree locations (if any)
- \_\_\_\_ 5. Utility routings
- \_\_\_\_ 6. Service areas/equipment locations
- \_\_\_\_ 7. Driveway, parking, paving and walkway locations
- \_\_\_\_ 8. Fences/walls locations
- \_\_\_\_ 9. Height of all structures, fences/walls
- \_\_\_\_ 10. North arrow, primary view and wind directions
- \_\_\_\_ 11. Pool and spa locations (if any)
- \_\_\_\_ 12. Pool safety fencing or grade separation
- \_\_\_\_ 13. Exterior lighting
- \_\_\_\_ 14. Building setbacks and easement
- \_\_\_\_ 15. Waste water system location
- \_\_\_\_ 16. Surface drainage arrows
- \_\_\_\_ 17. HELCO electric meter location
- \_\_\_\_ 18. Solar panels location (if any)
- \_\_\_\_ 19. Construction staging/storage area location(s)
- \_\_\_\_ 20. Temporary structure location(s)

Grading Plan (or include with Site Plan) - including:

- \_\_\_\_ 1. Minimum scale: 1/20" = 1' - 0"
- \_\_\_\_ 2. Topography - existing and finish grade contours at 2' intervals

Floor Plan(s) - including:

- \_\_\_\_ 1. Minimum scale: 1/4" = 1' - 0"
- \_\_\_\_ 2. Walls and partition
- \_\_\_\_ 3. Doors and windows

- \_\_\_\_\_ 4. Stairs
- \_\_\_\_\_ 5. Room names
- \_\_\_\_\_ 6. Dimensions
- \_\_\_\_\_ 7. Areas (interior/garage/lanais)
- \_\_\_\_\_ 8. Exterior lighting locations

Building Section(s) - including:

- \_\_\_\_\_ 1. Minimum scale: 1/4" = 1' - 0"
- \_\_\_\_\_ 2. Roof, wall, partition, floor and decks
- \_\_\_\_\_ 3. Dimensions
- \_\_\_\_\_ 4. Exterior materials
- \_\_\_\_\_ 5. Existing and finish grades
- \_\_\_\_\_ 6. Building height limit

Exterior Elevations (minimum 4) - including:

- \_\_\_\_\_ 1. Minimum scale: 1/4" = 1' - 0"
- \_\_\_\_\_ 2. Exterior features (roof, walls, doors/windows, decks/railings)
- \_\_\_\_\_ 3. Materials and finishes
- \_\_\_\_\_ 4. Building height limit
- \_\_\_\_\_ 5. Floor elevations(s) and existing & finish grades

Landscape Plan - including:

- \_\_\_\_\_ 1. Minimum scale: 1/16" = 1' - 0"
- \_\_\_\_\_ 2. Landscape planting
- \_\_\_\_\_ 3. Plant materials
- \_\_\_\_\_ 4. Irrigation
- \_\_\_\_\_ 5. Landscape lighting

Specifications

- \_\_\_\_\_ 1. Specifications for exterior materials

Miscellaneous (8-1/2" x 11" format) - including:

- \_\_\_\_\_ 1. Exterior color samples - roof and walls (field/trim)
- \_\_\_\_\_ 2. Exterior material/product brochure or cut sheet
- \_\_\_\_\_ 3. Exterior light fixture(s) cut sheet
- \_\_\_\_\_ 4. Landscape light fixture(s) cut sheet
- \_\_\_\_\_ 5. Construction Completion Schedule
- \_\_\_\_\_ 6. Grading and building permits

## **Appendices to Kohala by the Sea Design Rules**

1. *Fine Enforcement Policy Dated 2019- Fine Enforcement Policy can be viewed in the Owners Only pages*
2. *Firewise Summary Information 2010, amended 2015, 2020*
3. *Permissible maximum building height chart dated 3-04-10, updated 4-20-20*

## **Firewise Summary Information.: Appendix 2, updated 4/02/20:**

You may not know that Kohala by the Sea (KBTS) is the first Firewise community in Hawaii, and has been so honored since 2004. When investing a large sum of money in your home at KBTS, it is important to know that we are located in a lava desert, and that wildfires are common here. In designing your home or retrofitting it for maximum fire resistance, it is critical to have a zone surrounding your home that is fire resistant; either covered with gravel, stone or grass, and a good distance from flammable material. Be aware that the nearest fire department is at milepost 74 on the Queen Kaahumamu Highway, nearly ten miles away. The KBTS Firewise committee works closely with our fire department, who are fully aware of the steps that we have taken over the last several years to "fire proof" our community. The Kohala Ranch Volunteer Fire Department has a 4WD off- road tanker that will be summoned if a fire threatens KBTS. This apparatus was purchased through donations from the residents of our surrounding communities, including KBTS, and cost over \$100,000.

In 2010, KBTS received a grant from the Federal Firewise Program for \$50,000, which was matched in the next two years. Plantings on Hokulele Drive were designed to save water and to be fire resistant, and replaced diseased Hibiscus shrubs previously in these locations.

The Firewise Committee offers external home inspection services to all owners, should they desire to have an assessment of their Firewise conditions.

We work with the local Hawaii Wildfire Management Org. (HWMO) in Waimea to do NFPA-required community risk assessments on a regular basis.

There are steps you should take with your home BEFORE a fire in order to safe guard it as much as possible.

- 1) Your landscaping should be fire resistant.
- 2) All tree limbs should be trimmed to 10 feet away from your house.
- 3) All flammable vegetation should be cleared to allow a 30 foot defensible greenbelt or gravel barrier around your home which, in the former case, is well irrigated.
- 4) Fire resistant shrubs should be planted at least 10 feet apart to prevent fire from jumping from tree to tree ladder fashion toward the house.
- 5) Tree limbs should be pruned 8-10 feet above the ground and any dead limbs should be removed to prevent fire from spreading UP the tree.
- 6) Clear the area near your propane gas tank of flammable grasses.
- 7) Post your house number and make sure it is easily visible so firefighters can find it.



## **Firewise Summary Information, Page 2**

8) If you have a pool, purchasing a portable high capacity pumps may assist you before a fire arrives.

9) Have a plan and practice your plan.

10) Register your contact information with our Call-Em-All Automated Fire (Emergency) Calling System and know your Automated Fire Call Procedure.

**Building Height Calculations: Appendix 3**  
**4-20-2020**

**KBS Building Height Maximums for vacant lots**

<b>Lot #</b>	<b>Roof height maximum, ft.</b>	<b>Slope</b>	<b>Max. Roof Height ft.</b>
<b>2</b>	<b>243</b>	<b>0.07</b>	<b>20 ft.</b>
<b>5</b>	<b>204.5</b>	<b>0.13</b>	<b>20 ft.</b>
<b>6</b>	<b>189</b>	<b>0.16</b>	<b>25 ft.</b>
<b>11</b>	<b>319</b>	<b>0.17</b>	<b>25 ft.</b>
<b>12</b>	<b>294</b>	<b>0.13</b>	<b>20 ft.</b>
<b>13</b>	<b>314.5</b>	<b>0.11</b>	<b>20 ft.</b>
<b>14</b>	<b>330</b>	<b>0.15</b>	<b>25 ft.</b>
<b>16</b>	<b>355</b>	<b>0.09</b>	<b>20 ft.</b>
<b>17</b>	<b>356</b>	<b>0.1</b>	<b>20 ft.</b>
<b>18</b>	<b>344</b>	<b>0.22</b>	<b>25 ft.</b>
<b>19</b>	<b>314.5</b>	<b>0.13</b>	<b>20 ft.</b>
<b>22</b>	<b>355</b>	<b>0.12</b>	<b>20 ft.</b>
<b>24</b>	<b>362</b>	<b>0.10</b>	<b>20 ft.</b>
<b>27</b>	<b>393.5</b>	<b>0.09</b>	<b>20 ft.(30 ft.)</b>

**Note 3**

**Appendix 3** (page 2)

**KBS Building Height Maximums for vacant lots**

<b>Lot #</b>	<b>Roof height ft.</b>	<b>Slope</b>	<b>Max. Roof Height ft.</b>	
<b>570</b>	<b>311.5</b>	<b>0.28</b>	<b>25 ft.</b>	
<b>575</b>	<b>257.5</b>	<b>0.13</b>	<b>20 ft.</b>	
<b>582</b>	<b>242</b>	<b>0.16</b>	<b>25 ft.</b>	
<b>586</b>	<b>271</b>	<b>0.03</b>	<b>20 ft.</b>	
<b>593</b>	<b>318.5</b>	<b>0.07</b>	<b>20 ft.(25 ft.)</b>	<b>Note 2</b>
<b>594</b>	<b>311</b>	<b>0.04</b>	<b>20 ft.</b>	
<b>599</b>	<b>359</b>	<b>0.08</b>	<b>20 ft.(30 ft.)</b>	<b>Note 1</b>
<b>601</b>	<b>369</b>	<b>0.08</b>	<b>20 ft.(30 ft.)</b>	<b>Note 1</b>
<b>605</b>	<b>292</b>		<b>20 ft.</b>	
<b>614</b>	<b>220</b>	<b>0.05</b>	<b>20 Ft.</b>	

**Note 1: Variance required for 25 or 30 feet  
(Back of the Development)**

**Note 2: If slab is excavated 5 feet, 25 foot home is  
allowed. DRC Decision dated 1/17/09**

***Note 3: DRC approved a variance request for 388.5  
max roof elevation on lot 27.***