

**TOWN OF BEAUX ARTS VILLAGE
ORDINANCE NO. 382**

AN ORDINANCE OF THE TOWN OF BEAUX ARTS VILLAGE
ESTABLISHING THE OFFICE OF HEARING EXAMINER AND GRANTING POWERS
THERE TO; AND REPEALING ORDINANCE NO. 264.

**BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE,
WASHINGTON, AS FOLLOWS:**

Section 1. Hearing Examiner. The office of Hearing Examiner for the Town of Beaux Arts Village is hereby created, hereafter referred to as “Examiner”.

Section 2. Powers. The Examiner shall perform the following duties, including but not limited to:

- 2.1. Hear all requests for variances to the Town’s Zoning Code.
- 2.2. Hear all requests for variances to the Town’s Subdivision Code.
- 2.3. Hear all requests for exception to the Town’s Tree Code.
- 2.4. Hear all appeals of the Building Official’s interpretations of the Town’s Building Code (Board of Appeals).
- 2.5. Perform other quasi-judicial functions as are delegated by ordinance or as may be assigned by the Mayor or Council.

Section 3. Appointment and Term. The Mayor shall appoint the Examiner, subject to confirmation by the Council. The Mayor may also appoint deputy examiners or examiners pro tem in the event of the examiner’s absence or inability to act, who shall have all the duties and powers of the Examiner. The terms and conditions of the each Examiner’s appointment shall be set forth in a written contract.

Section 4. Qualifications. The Examiner shall be appointed solely with regard to his or her qualifications for the duties of his or her office and will have such training and experience as will qualify him or her to conduct administrative or quasi-judicial hearings and to discharge other delegated functions. The Examiner shall neither be a resident of the Town of Beaux Arts Village nor hold an elective or appointive office or position within the Town government.

Section 5. Conflict of interest and freedom from undue influence.

- 5.1. The Examiner shall not conduct or participate in any hearing or decision in which he or she has a personal or financial interest, whether direct or indirect. Any actual or potential conflict of interest shall be disclosed to the parties immediately upon discovery of the conflict. In the event of contact prior to a hearing regarding a matter at issue, the Examiner shall disclose said contact and shall not participate in the hearing unless all parties agree in writing to have the matter heard by the Examiner.
- 5.2. No person, including Town officials, elected or appointed, shall attempt to influence an Examiner in any matter pending before him or her. This does not preclude a Town official,

elected or appointed, from testifying before the Examiner as a witness or as a party of interest.

Section 6. Initiation of Action. The Examiner shall hold one or more public hearings in response to any applicant who has filed a request for variance or an appeal in accordance with Town ordinances.

Section 7. Authority. On all matters for which jurisdiction is assigned to the Examiner by Town ordinance, code or other legal action of the Town Council, the Examiner shall have the authority to:

- 7.1. Receive and examine available information;
- 7.2. Conduct public hearings in accordance with Chapter 42.32 RCW and all other applicable laws, and to prepare a record thereof;
- 7.3. Administer oaths and affirmations;
- 7.4. Issue subpoenas and examine witnesses; provided, that no person shall be compelled to divulge information that he or she could not be compelled to divulge in a court of law;
- 7.5. Regulate the course of the hearing;
- 7.6. Make and enter written findings of fact and conclusions to support his or her decisions;
- 7.7. Hold conferences for the settlement or simplification of the issues, at the Examiner's discretion;
- 7.8. Conduct discovery;
- 7.9. Dispose of procedural requests or similar matters;
- 7.10. Take official notice of matters of law or material facts;
- 7.11. Issue summary orders in supplementary proceedings; and
- 7.12. Take any other action authorized by or necessary to carry out this ordinance.

Section 8. Rules for Hearings. The Examiner shall establish rules for the conduct of hearings and other matters relating to the duties of his or her office. Such rules shall provide for the admission of evidence, examination and cross-examination of witnesses, rebuttal evidence and all other matters relevant to the conduct of the hearing. The Examiner may limit the time allowed to parties testifying on an equal basis, may establish time limits for initial or rebuttal evidence, may limit cross-examination of witnesses and may limit the number of witnesses to be heard.

Section 9. Decision of Hearing Examiner. The Examiner shall render a written decision within ten (10) working days of the conclusion of the hearing, unless a longer period is agreed to by the applicant or, in the opinion of the Examiner, additional testimony is warranted. In such cases, the Examiner shall render a written decision within ten (10) working days from the conclusion of the re-opened hearing and/or the receipt of any requested information.

Section 10. Request for Reconsideration.

- 10.1. Any party to the proceeding who is aggrieved by the decision of the Examiner may submit a written request for reconsideration to the Town Clerk within fourteen (14) calendar days of the Examiner's decision.
- 10.2. Such request for reconsideration shall specify the error of law or fact, procedural error or new evidence that could not have been reasonably available at the time of the hearing.

- 10.3. The Examiner shall decide within ten (10) working days of his or her receipt of the request for reconsideration whether to re-open the hearing.
- 10.4. Said decision shall be mailed to parties of record no more than three (3) working days after the Examiner's decision is made.

Section 11. Appeal of Examiner's Decision.

- 11.1. Any party to the proceeding who is aggrieved by the decision of the Examiner may submit a written appeal to the Town Council within twenty-one (21) calendar days of the date of mailing of the Examiner's decision.
- 11.2. The appeal shall include a statement setting forth the specific grounds for the appeal, including the particular ordinance or provision of the ordinance at issue and the facts that support the grounds for the appeal.
- 11.3. The timely filing of an appeal shall stay the effective date of the Examiner's decision until such time as the appeal is adjudicated or withdrawn.
- 11.4. The Council shall hear the appeal at its next regularly scheduled meeting provided that there is sufficient time to provide proper public notice as required by law.

Section 12. Repealer. Ordinance No. 264, passed by the Council on March 18, 1997, is hereby repealed.

Section 13. Validity. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases subsequently may be found by competent authority to be unconstitutional or invalid.

Section 14. Effective Date. This ordinance shall take effect five (5) days after its passage and publication.

PASSED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE on the 8th day of March, 2011 and signed in authentication of its passage.

Richard Leider, Mayor

ATTEST:

APPROVED AS TO FORM:

Sue Ann Spens
Clerk-Treasurer

Wayne Stewart
Town Attorney

I certify that copies of the above ordinance were posted as required by law in the Town of Beaux Arts Village, Washington, on the _____th day of _____, _____.

Sue Ann Spens
Clerk-Treasurer