

## Chapter 18.10 ZONING

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### **18.10.010 Title, purpose, and interpretation.**

(1) Title. This chapter shall be known as the zoning code ordinance of the town of Beaux Arts Village, Washington.

(2) Purpose and Intent. The general purpose and intent of this chapter is to protect and promote public health, safety, and general welfare and to promote the beauty and tranquility of the residential characteristics of the town through furtherance of the original concept as established in 1908 and the comprehensive plan, to provide for the physical development of the town by regulating and establishing standards for the location, size, configuration and use of buildings, structures, and land. The provisions of this chapter are designed to lessen traffic congestion and accidents, to secure safety from fire, to provide adequate light and air, to prevent overcrowding of land, to promote coordinated development of unbuilt areas, to conserve and restore natural beauty and other resources, to facilitate the adequate provision of transportation, water, and sewage, and for other public uses and requirements.

(3) Interpretation. In the interpretation and application of this chapter, its provisions shall be construed to be the minimum requirements, which are adopted for the promotion of the public health, safety, and general welfare. Uses permitted are specifically set forth, and this chapter shall be construed to prohibit uses not expressly permitted. Any use

listed in this chapter shall not be construed to include other uses. [Ord. 372 § 1, 2009]

**18.10.020 Definitions.**

“Addition” means any extension or increase in floor area or height of a building or structure.

“Alter” or “alteration” means any change to an existing structure.

“Antenna” means the largest component of a satellite receiving system. It is also referred to as “dish.”

“Appurtenant” or “accessory” means a subordinate use, located on the same lot with the principal use, that is related to and supports the use of the primary residential building.

“Basement” means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

“Building” means any structure having a roof supported by columns and/or walls for the housing or enclosure of persons, animals or chattels. When any portion of a building is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.

“Building lot” means a fractional part of subdivided lands having fixed boundaries and being of sufficient area and dimension to meet minimum zoning requirements of the town.

“Building official” means the person or firm employed by the town to provide building department services and to perform the duties of the building official as set forth in the State Building Code. “Council” means the town council of the town of Beaux Arts Village, Washington.

“Deck, patio, platform, porch, slab structure, or veranda” means a projection from a wall or building that is designed, established, and/or installed to provide for entrance or exit, outdoor living, cooking, and/or recreation, some sides of which are open and which may or may not have a permanent overhead covering; or a surfaced area of the ground beyond a building that is designed, established, and/or installed to provide for outdoor living, cooking, or recreation, some sides of which are open and which may or may not have a permanent overhead covering. Such projections shall be considered to be appurtenant buildings or appurtenant devices and shall be subject to setback requirements.

“Dormer” means a roofed structure, containing a window, that rises above the plane of a sloping roof and is set back from the eave of the roof.

“Driveway” means the egress and ingress between the paved roadway and the parking facilities on a property (e.g., garages, carports, and parking pads), including both the

private property and town right-of-way portion. For purposes of this chapter, the driveway width is defined as the width of the parking facilities.

“Dwelling house, single-family” means a structure consisting of one or more habitable rooms that are occupied or that are intended or designed to be occupied by only one family with facilities for living, sleeping, cooking, eating, and sanitation.

“Existing grade” means the surface level at the perimeter of any existing building prior to any grading or alteration of the ground surface; or if undeveloped, the surface level at any point on a lot prior to any grading or alteration.

“Family” means one or more persons (but not more than six unrelated persons) living together in a single housekeeping unit. For the purposes of this definition and notwithstanding any other provision of this code, children with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h) will not be counted as unrelated persons.

“Finished grade” means the grade at the perimeter of the building after completion of all grading or alteration of the ground surface for site development that conforms to approved plans.

“Floor” means the horizontal structural component in the interior of a building not otherwise defined as ceiling or roof and commonly used as a load-bearing surface for walking, supporting equipment and partition walls, and otherwise subject to IBC dead and live load requirements for floors.

“Floor level” means the uppermost horizontal surface of a floor.

“Grade (adjacent ground elevation)” means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

“Gross floor area” means the number of square feet of total floor bounded by the exterior faces of the building. The gross floor area of a single-family dwelling shall include:

- (1) The main building, including but not limited to attached accessory structures.
- (2) All garages and covered parking areas, and detached accessory buildings with a gross floor area over 120 square feet. The portion of a garage floor that is located below finished grade may be excluded from the gross floor area in the same manner as a basement.
- (3) The area of any deck that is 30 inches or more above finished grade at any point.

(4) That portion of a basement as defined in the International Building Code that projects above finished grade as calculated in the following example.

(5) That portion of an attic that is habitable space as defined in the International Building Code (IBC).

(6) Any portion of a room as measured on a horizontal plane 14' above the floor shall be counted as additional floor area. Of this additional floor area, 100 square feet is exempt, as well as the space directly above a stairway.

### Basement Floor Area Calculation

The Beaux Arts zoning code excludes from the gross floor area the portion of the basement floor area that is below finished grade. The portion of the basement that will be excluded is calculated as shown here.

$$\text{Portion of Excluded Basement Floor Area} = \text{Total Basement Area} \times \frac{\Sigma(\text{Wall Segment Coverage} \times \text{Wall Segment Length})}{\text{Total of all Wall Segment Lengths}}$$

Where the terms used in the equation are defined as follows:

Total Basement Area = the total amount of all basement floor area.

Wall Segment Coverage = the portion of an exterior wall below finished grade. It is expressed as a percentage (refer to example).

Wall Segment Length = the horizontal length of each exterior wall in feet.

### Example of Basement Floor Area Calculation

This example illustrates how a portion of the basement floor area may be excluded from the gross floor area. In order to complete the calculation, the following information is needed:

- A topographic map of the existing grades.
- Building plans showing dimensions of all exterior wall segments and floor area.
- Building elevations showing the location of finished grades in relation to basement level.

Step One.

Determine the number and lengths of the wall segments.

Step Two.

Determine the wall segment coverage (as a percentage) for each wall segment. In most cases, this will be readily apparent. For example, the wall segment coverage of a downhill elevation that is entirely above finished grade will be zero percent, while the wall segment coverage of an uphill elevation that is entirely below finished grade will be 100 percent. In other cases where the grade contours are complex, an averaging system consisting of a line drawn between the corners of the wall segment, at the intersection with the finished grade, shall be used to approximate the complex contour.

Step Three.

Multiply each wall segment length by the percentage of each wall segment coverage and add these results together. Divide the number by the sum of all wall segment lengths. This calculation is most easily completed by compiling a table of the information as illustrated below and will result in the percentage of basement wall that is below finished grade.

**Table of Wall Lengths and Coverage**

Wall Segment	Length	Coverage	Result
A	25 ft.	56%	14 ft.
B	10 ft.	0%	0 ft.
C	8 ft.	0%	0 ft.
D	25 ft.	0%	0 ft.
E	8 ft.	0%	0 ft.
F	13 ft.	0%	0 ft.
G	25 ft.	60%	15 ft.
H	48 ft.	100%	48 ft.
TOTALS	L=162 ft.		R=77 ft.

where Length (in feet) x Coverage (as a %) = Result (in ft.).

Step Four.

Multiply the total basement floor area by the total percent coverage (the total result (R) divided by the total length (L), i.e., R/L) to determine the excluded basement floor area.

$$\text{Portion of Excluded Basement Floor Area} = (\text{Total Basement Floor Area}) \times (R/L)$$

$$\begin{aligned}
 &= 1,400 \text{ sq. ft.} \times \frac{77'}{162'} \\
 &= 1,400 \text{ sq. ft.} \times 47.5\% \\
 &= 1,400 \text{ sq. ft.} \times 0.475 \\
 &= 665 \text{ sq. ft. of the} \\
 &\quad \text{basement excluded} \\
 &\quad \text{from the gross floor} \\
 &\quad \text{area}
 \end{aligned}$$

“Gross floor area ratio (G FAR)” means the total gross floor area divided by the total area of the building lot.

“Guest” means one who is received and entertained by the residents of a single-family dwelling house for a visit, who occupies a room for living and sleeping without payment or other remuneration.

“Hearing examiner” means an individual appointed by the mayor to act on behalf of the town in quasi-judicial matters as established by town ordinance; also referred to as the examiner.

“Height of building or structure” means the greatest distance measured vertically from any point on the structure to the existing grade. It does not include chimneys or conventional radio or television receiving antennas.

“Impervious surface” means all of the following: the footprint of buildings and structures including all eaves; vehicular use areas including driveways, streets, parking areas whether constructed of gravel, pavers, pavement, concrete or other material that allows vehicular travel; pedestrian walkways; recreational facilities including patios, porches, sports courts, swimming pools, ornamental pool, hot tubs, and other similar facilities; landscaping or structural walls or rockeries; miscellaneous other hard surfaces, including decks, which prevent or impede the entry of water into the soil or cause water to run off the surface in greater quantities or an increased rate of flow under natural conditions prior to development.

“Junker” means any vehicle not currently licensed to be driven on public roads or not currently capable of being legally driven.

“Line of sight” means the view along a town right-of-way from any part of a paved roadway to any other part of a paved roadway.

“Lot” means a fractional part of subdivided lands having fixed boundaries. The term shall include all land held as a unit, regardless of whether described on plats or in documents of title as one or several tracts, blocks, lots, parcels or portions thereof. Land is held as a unit if contiguous and beneficially owned or controlled by one person or by a group of affiliated persons (such as a marital community, or joint venture, or partnership

or a corporation and/or one or more of its subsidiaries, officers, directors or stockholders, etc.) acting together with respect to the land. This definition also applies to tract or parcel.

“Lot coverage” means the total horizontal area covered by buildings and structures, including pools, concrete slabs, black topping, gravel, crushed rock, pavers, or other impervious surfaces; and also including that area measured to the outermost parts of any structure, including, but not restricted to, porches, overhang portions of the roof, carports, garages and cantilevered portions. Free-draining spaced-plank decks are exempt from the determination of lot coverage.

“Maximum allowable structure size” means the maximum size allowable for structures on a given building lot, including the garage or carport and all accessory buildings.

“Nonconforming building” means an existing structure that does not comply with the current provisions of the town zoning code.

Nonconforming Lot. An established but nonconforming lot is a fractional part of subdivided lands that at the time of the adoption of Ordinance No. 21 (June 23, 1959) was occupied by a single-family dwelling house but is of insufficient area and dimension to meet the minimum zoning requirements of the town.

“Passenger vehicle” means any of the following vehicles: automobiles, seven-to-nine-passenger vans, and small pickup trucks.

“Reconstruction” means any construction in which 50 percent or more of the exterior structure is replaced over a three-year period and/or the value of the entire construction project is equal to or greater than \$500,000 over a three-year period.

“Recreational, commercial, or utility vehicle” means any of, but not limited to, the following: boats, campers, boat trailers, travel trailers, pickup campers, coaches (designed to be mounted on automotive vehicles), motorized dwellings, recreational vehicles, tent trailers, and cases or boxes used for transporting recreational equipment, utility trailers, trucks, junkers, machinery, passenger vehicles under repair, commercial vehicles, camper tops or shells.

“Remodel” means any construction in which less than 50 percent of the exterior structure is replaced over a three-year period and/or the value of the entire construction project is less than \$500,000 over a three-year period.

“Retaining walls, rockeries” means a wall of masonry, wood, rock, metal, or other similar or combination of similar materials that bears against earth or other fill material for the purpose of resisting lateral or other forces in contact with the wall and/or the prevention of erosion.

“Room” means an area within a building enclosed by a floor and a ceiling, and defined by walls or partitions.

“Roomer” means one who lives in a room or rooms in another’s residence for payment or other remuneration.

“Satellite receiving systems” means a system for receiving satellite signals, e.g., television programming, and usually composed of three parts: the antenna, a low-noise amplifier, and a receiver. The antenna and low-noise amplifier are located outdoors, and the receiver is indoors.

“Screen” means fencing, landscaping, or structure that obscures the view of an object from the right-of-way and/or adjoining property.

“Setback” means a term establishing a minimum distance from a lot line to the outermost projection of any structure, including but not restricted to, porches, overhanging portions of the roof, carports, garages, and cantilevered portions. The setbacks establish an area at the edges of a lot upon which building, appurtenant devices and structures may not be placed, and conversely, the area enclosed by the setback lines is the only area upon which such things may be located.

“Setback, front” means the space abutting any developed street, the width of which is wholly within the town, and extending the full width of the lot.

“Setback, rear” means the space abutting a property line, access easement or private road and opposite to the front setback or as nearly so as the lot shape permits, and extending the full width of the lot. If more than one rear setback is described, that setback which is farthest from the front setback shall be the required rear setback. All others shall be treated as side setbacks. If more than one front setback exists, the rear setback shall be opposite to the setback from which the lot is addressed.

“Setback, side” means the space abutting a property line, access easement or private road and generally between the required front and rear setback. Any setback not defined as a front or rear setback shall be a side setback.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above finished grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

“Story, first” means the lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet below finished grade, as defined herein, for more that 50 percent of the total perimeter, or not more than eight feet below finished grade, as defined herein, at any point.

“Structure” means that which is erected, built or constructed, including an edifice or



building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, and including the construction or installation of any impervious slabs or surfaces.

“Structural Coverage” means the total horizontal area covered by buildings and structures, but not to include decks less than 30” and other impervious surfaces.

“Town” means the town of Beaux Arts Village, Washington.

Other Definitions. When any word used in this chapter is not specifically defined herein, its definition shall be its ordinarily accepted meaning within the context used. Webster’s Third New International Dictionary of the English Language Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings. [Amended during 2011 codification; Ord. 383 § 1, 2011; Ord. 372 § 2, 2009]

**18.10.030 Comprehensive plan consistency.**

(1) The council of the town of Beaux Arts Village hereby finds that the ordinance codified in this chapter is consistent with the town’s comprehensive plan.

(2) State Environmental Policy Act. The ordinance codified in this chapter does not have a probable significant adverse impact on the environment. An environmental impact statement is not required. The town adopts the determination of nonsignificance and environmental checklists associated with the ordinance specified in subsection (1) of this section. [Ord. 372 § 3, 2009]

**18.10.040 Use and occupancy of real property.**

(1) No structure may be erected or constructed in the town except on a building lot meeting the requirements of this chapter.

(2) The only structures permitted in the town are single-family dwelling houses and structures accessory thereto. No more than one single-family dwelling house may be constructed or occupied on each building lot.

(3) No sleeping or kitchen facilities shall be allowed in any appurtenant buildings or accessory structures.

(4) No structures detached from the dwelling house shall be occupied as the principal living or sleeping quarters of any person.

(5) The only exception to subsections (1) and (2) of this section shall be the structures deemed necessary for the maintenance and operation of the town’s water system or for other public purposes as authorized by the council.

(6) No dwelling house shall be erected or constructed in the town upon any lot occupied at the time of construction by another dwelling house unless the original dwelling house shall be totally incorporated and integrated into the new dwelling house in such a manner as to create one single-family dwelling house.

(7) House trailers, campers, caravans and all other vehicles or structures adapted to serve as movable or portable living quarters may not be used as living quarters within the town of Beaux Arts Village, upon public or private property, except that a member of the household of a resident or temporary guests of a resident of the town may use such living quarters upon the premises and with the consent of such resident for a period not exceeding 14 consecutive days. [Ord. 372 § 4, 2009]

**18.10.050 Size and configuration of building lots.**

(1) No dwelling house shall be erected in the town upon a lot having a total horizontal area within the exterior lines of said parcel of less than 10,000 square feet unless said parcel is a nonconforming lot.

(2) New building lots established by subdivision shall be created by dividing an existing lot by a single straight line drawn at a right angle to an existing property line. Variances from this rule may be permitted by the council, which shall consider, but not be limited to, the following factors: compliance with the comprehensive plan, Chapter [18.05](#) BAVMC, preexisting property lines, town streets, natural topographical features, natural obstructions, and impact upon adjoining or surrounding lots and buildings.

(3) Newly created building lots shall have a total horizontal area within the exterior lines of said parcel of at least 10,000 square feet.

(4) No person owning or having any interest in real property lying within the confines of the town, whether the same be a legal or equitable interest therein, shall sell, transfer, convey, contract to sell, lease, or in any other manner whatsoever dispose of any part of a single parcel of real property under any one of the following conditions:

(a) If the remaining portion of said lot or parcel shall have less than 10,000 square feet of horizontal area lying within the exterior lines of said remaining portion; or

(b) If the part of said lot or parcel being sold, transferred, conveyed, leased or otherwise disposed of shall have a dwelling house located thereon and shall have less than 10,000 square feet of horizontal area lying within the exterior lines of said part; or

(c) If the required setback, gross floor area ratio (GFAR), and lot coverage restrictions or any other requirements as set forth in town ordinances shall be violated as a result of such sale, transfer, conveyance, contract, lease, or other method of disposition of a part of a single parcel of real property. [Ord. 372 § 5, 2009]

**18.10.060 Commercial activities.**

(1) No commercial activity shall be carried on within the limits of the town of Beaux Arts Village; provided, however, that the council may issue permits, which may be revoked at any time, with or without cause, for the conduct of commercial activities within the town, if the applicant has prepared an application which states that the applicant will comply with the following conditions:

(a) The proposed commercial activity shall be carried on wholly within the confines of the applicant's home or other structure appurtenant thereto, and it shall utilize no more than 25 percent of the gross floor area of said structures.

(b) No person who is not a member of the applicant's immediate family and who is not a resident in the applicant's home may be employed.

(c) There shall be no exterior display, no exterior alteration of the property, no exterior signs, no exterior storage of materials and no other exterior indication of commercial activity or variation from the residential character of the premises.

(d) Structural alterations to the interior or exterior of the building that change the residential character thereof shall not be permitted.

(e) The use of electrical or mechanical equipment that would change the fire rating of the structure or create visible or audible interference in radio or television receivers or cause fluctuations in line voltage outside the dwelling unit is prohibited. There shall be no bulk storage of flammable, explosive, or toxic materials.

(f) There shall be no noise, vibration, smoke, dust, odors, heat, or glare produced as a result of the commercial activity that would exceed that normally produced at a single-family residence.

(g) There shall be no demand for parking beyond that which is normal to the neighborhood and no unusual or excessive traffic to and from the premises. In no case shall the commercial activity cause excessive on-street parking.

(h) The proposed commercial activity shall not involve the use of commercial vehicles.

(i) The proposed commercial activity shall not disturb the tranquility of the neighborhood in any way.

(2) Applications for commercial activity permits shall be submitted to the town clerk for review at least 15 days prior to the next scheduled council meeting if the applicant wishes it to be considered at that meeting. The council may grant a commercial activity permit if they find that the applicant will comply with the above stated conditions. If required by the council, the applicant shall provide all relevant information concerning the above stated conditions to the council. This shall not apply to the activities of utility companies or to the delivery of goods to or performance of services for residents of the town.

(3) The council may revoke a commercial activity permit at any time that it determines that the permit holder is not complying with any condition of the permit.

(4) Rooms may be rented to not more than one person other than the family occupying

a single-family dwelling. The family must comply with health and building code requirements. The owners of the rooms to be rented shall provide additional off-street parking for all vehicles owned or used by the roomer.

(5) Advertising shall be permitted within the town on private property only. Signs shall be of sturdy construction and shall be no larger than three feet by three feet in size. Official notices required or permitted by the council may be posted on town rights-of-way. All signs shall be removed after their reason for being has expired. [Ord. 372 § 6, 2009]

**18.10.070 Western Academy of Beaux Arts open space land.**

(1) The town hereby finds that preservation of the land involved in its present use will conserve and enhance natural and scenic resources in the town, county, and state; will help protect the water supply of the town; will promote conservation of soils, shorelands, beaches, and Lake Washington; will enhance the value to the public of neighboring and abutting wildlife sanctuaries, and other open space; and will greatly enhance recreation opportunities;

(2) The council hereby classifies and zones all the land owned by the Western Academy of Beaux Arts being the westerly portion (westerly approximately 100 feet or more) of the town of Beaux Arts Village abutting upon the eastern shore of Lake Washington together with those corridors for access to such land, as “open space land” set aside for preservation as recreational land in accordance with Chapter 84.34 RCW. [Ord. 372 § 7, 2009]

**18.10.080 Location, size and height of buildings and structures, appurtenant buildings, structures and devices – Lot coverage – Gross floor area.**

(1) All buildings and structures, including appurtenant devices and structures, shall be set back at least 20 feet from the front property line.

(2) All buildings and structures, including appurtenant devices and structures, shall be set back at least 10 feet from the side property line.

(3) All buildings and structures, including appurtenant devices and structures, shall be set back at least 25 feet from the rear property line.

(4) The maximum height of any building or structure shall not exceed 30 feet above existing grade.

(a) The higher side of a shed roof shall not exceed 24 feet above the existing grade of the adjacent property line.

(ba) The finished grade around the perimeter of the building shall not be altered to create a perimeter height exceeding 30 feet above existing grade.

(cb) The perimeter face of any building or structure shall not exceed 30 feet.

(5) The lot structural coverage area shall not exceed ~~35~~ 30 percent of the total building lot area. ~~Pedestrian area square footage, to a maximum of 5 percent of the building lot area and composed of crushed rock, sand set pavers, or gravel, shall not count towards the lot coverage maximum of 35 percent.~~

~~(6)~~ (7) The lot coverage area shall not exceed 50 percent of the total building lot area.

~~(6)~~ (7) The gross floor area ratio (GFAR) shall not exceed 35 percent of the total building lot.

~~(7)~~ (8) The maximum allowable structure size, including garage or carport and accessory buildings, is 7,000 square feet.

~~(8)~~ (9) Structures within Setbacks.

(a) The following structures may be allowed within all setback areas: fences; retaining walls; rockeries up to 30 inches tall; ornamental landscape structures up to 30 inches tall, including ornamental pools of any depth; garden ~~trellis~~ gatesarbors up to ~~eight~~ nine feet tall and up to 18 inches in depth; eaves or roof overhangs up to 18 inches in depth; one chimney up to 18 inches in depth and no wider than six feet.

(b) The following cantilevered architectural elements may be allowed within the front and rear setback areas: bay windows, greenhouse windows, and other minor architectural elements, each of which is less than 20 inches in depth and 10 feet in length. Such elements shall cover no more than 35 percent of the length of the building façade and are limited in height to 12 feet above the finished grade.

~~(9)~~ (10) The owner of a nonconforming lot may build up to a 2,500-square-foot single-family residence, including garage or carport, regardless of the size of the nonconforming lot.

~~(10)~~ (11) Each lot must contain only one front setback and only one rear setback. Any other setback will be considered a side setback.

~~(11)~~ (12) If a lot abuts the intersection of two town or WABA streets, a front setback of 20 feet, as prescribed in subsection (1) of this section, shall be required on the addressed street. The setback on the intersecting street shall be considered a side setback.

~~(12)~~ (13) Upon application for a building permit, the board is authorized to designate front, rear, and side setbacks in accordance with the definitions in BAVMC 18.10.020. If these definitions do not establish a front and rear setback, the board shall establish these setbacks based upon the orientation of the lot to the surrounding lots and to any existing development pattern. All other setbacks shall be defined in relation to the

established front and rear setbacks.

~~(13)~~ (14) All setbacks shall be measured from the lot line to the outermost projection of any structure, including, but not limited to, porches, overhanging portions of the roof, carports, garages, and cantilevered portions. [Amended during 2011 codification; Ord. 372 § 8, 2009]

**18.10.090 Off-street parking facilities and driveways.**

(1) Dwelling houses constructed or reconstructed after the effective date of the ordinance codified in this chapter shall include garages or carports for a minimum of two cars in conformance with subsection (4) of this section.

(2) Before adding additional square footage to an existing residence, or erecting an appurtenant structure thereto, existing dwelling houses shall provide parking spaces and/or garages or carports for a minimum of two cars, as defined in subsection (4) of this section.

(3) In addition to the requirements of subsections (1) and (2) of this section, additional parking spaces shall be provided for all boats, trailers and recreational vehicles that occupants regularly park or keep at any dwelling. These parking spaces shall be screened from view from the street and/or adjoining property by a fence or natural foliage. Passenger, recreational and utility vehicles must be parked in compliance with all town regulations.

(4) In order to meet the requirements of subsections (1) and (2) of this section, the size, location, and design of garages and carports, parking spaces and driveways shall be as follows:

(a) The minimum size of each newly created parking space, exclusive of aisles and driveways, shall be 180 square feet per vehicle.

(b) Garages and carports shall be located on the same parcel of real property as the dwelling house and must be further located so as to comply with the setback requirements applicable to buildings and appurtenant devices as set forth in the ordinances of the town.

(c) Parking spaces shall be located on the same parcel of real property as the dwelling house and not on any portion of the town's right-of-way. Side setback requirements must be observed.

(d) Driveways installed on privately owned property within the town may be constructed of gravel, asphalt, concrete or such other suitable driveway finishing material as may be approved by the town building official and may be located adjacent to the property line provided they are used for no purpose other than ingress to and egress from a garage, carport or other parking facility.

(e) Parking spaces and driveways shall not be constructed of impervious materials

without a building permit. [Ord. 372 § 9, 2009]

**18.10.100 Fences.**

No fence shall be erected or constructed in the town that exceeds a height of six feet within the side or rear yards, nor a height of four feet six inches in the front yard, or incorporates the use of barbed wire or electrical charges, except that two feet of barbed wire may be used on top of a six-foot or higher solid or chain link fence surrounding public utility property. [Ord. 372 § 10, 2009]

**18.10.110 Satellite receiving systems – Permit required.**

A building permit shall be required for the installation of a satellite receiving system if the antenna is larger than 30 inches in diameter. All such installations shall be subject to the requirements of the town zoning code and building code. [Ord. 372 § 11, 2009]

**18.10.120 Ground-level structures.**

Ground-level structures consisting of decks, patios, platforms, porches, slab structures or verandas shall be subject to the setback requirements of BAVMC [18.10.080](#). [Ord. 372 § 12, 2009]

**18.10.130 Swimming pools, wading pools, hot tubs, spas, landscape and ornamental pools.**

*Repealed during 2011 codification.* [Ord. 372 § 13, 2009]

**18.10.140 Subdivision and boundary line revisions (adjustments).**

The procedure for the sale, lease, division, conveyance, or alienation of parts of real property and interests therein shall conform with the town subdivision ordinance (Chapter [17.05](#) BAVMC). [Ord. 372 § 14, 2009]

**18.10.150 Sanitary facilities.**

Each dwelling house in the town shall be equipped with modern sanitary facilities and shall be connected to the sewer system that is duly franchised to serve the town. [Ord. 372 § 15, 2009]

**18.10.160 Nonconforming uses, buildings and structures, and building lots.**

The following regulations shall govern the continuation and elimination of nonconforming uses, buildings and structures, and building lots:

(1) Nonconforming Uses.

(a) Any use that lawfully existed at the date of the adoption of the ordinance codified in this chapter is hereby permitted to continue and to be maintained and operated in accordance with this section.

(b) A nonconforming use that has been discontinued for a period of one year or more shall be presumed conclusively to be abandoned and no such use shall be permitted thereafter.

(c) A building or structure containing a nonconforming use shall not be enlarged or expanded unless the use is brought into conformity with the requirements of this chapter, as amended.

(d) Whenever a building or structure that contains a nonconforming use is destroyed, damaged, or deteriorated to the extent of 50 percent or more of its replacement value, as determined by the town building official, any subsequent use shall be in conformity with this chapter.

(2) Nonconforming Buildings or Structures.

(a) Any nonconforming building or structure that lawfully existed as of January 13, 2004, is hereby permitted to continue, to be maintained, repaired or brought into compliance with current building codes, and to be operated in accordance with this section.

(b) The remodel of an existing nonconforming building or structure will be allowed without a variance; provided, that any existing nonconformity is not increased. Such nonconformities include noncompliance with current setback, height, gross floor area, and lot coverage regulations.

(c) The reconstruction of a nonconforming structure shall only be permitted through the granting of a variance.

(d) Any nonconforming building or structure that is damaged or destroyed by a fire or natural disaster may be rebuilt to its previous building footprint and envelope without obtaining a variance.

(3) Nonconforming Building Lot. Any nonconforming lot upon which a single-family residence lawfully existed at the date of the adoption of the ordinance codified in this chapter, or any lot created under the town subdivision ordinance (Chapter [17.05](#) BAVMC), is hereby permitted to continue and to be maintained and operated in accordance with this chapter. [Ord. 372 § 16, 2009]

**18.10.170 Variances.**

Variances to BAVMC [18.10.050](#), [18.10.080](#) and [18.10.090](#) shall be submitted to the hearing examiner.

(1) No variance shall be approved or approved with modifications unless the examiner finds that all of the following ~~three~~<sup>five</sup> criteria have been met:

(a) The variance ~~shall~~<sup>will</sup> not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located~~town~~; and-

(b) ~~That~~<sup>at</sup> ~~e-granting-of-such~~<sup>the</sup> variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of



~~the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and will not be materially detrimental to the public welfare or injurious to other properties or improvements in the town. It will be consistent with the town's comprehensive plan.~~

~~(c) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated. is necessary because of special circumstances relating to the size, shape, topography, location, surroundings, and features of the subject property.~~

~~(d) The need for a variance has not arisen from actions previously taken by the applicant (owner).~~

~~(e) The variance is the minimum necessary to permit the owner reasonable use of the property.~~

(2) A variance may be approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the criteria of subsections (1)(a) through (e) of this section, then the application shall be denied.

(3) Fees. A nonrefundable fee shall be assessed for every request for variance submitted for review. Variance fees shall be set by resolution of the town council and shall be paid at the time the request for variance is submitted. No action shall be taken upon the request for variance until the fee has been paid.

(4) Notice of Public Hearing. Before a request for a variance is acted upon by the examiner, the examiner shall consider the application in an open record hearing at a public hearing. Notices of this public hearing shall be published, posted and mailed as required by town ordinance.

(5) Findings and Conclusions and Decision. In deciding upon the variance requested, the examiner shall prepare written findings and conclusions based upon the testimony and written exhibits submitted at the open record hearing. The date that such findings are signed shall be the date of action on the variance request.

(6) Appeals. The action of the examiner may be appealed to the council as authorized by ordinance. A 14-day appeal period begins from the date of action on the variance request. The appeal to the council will be a closed record hearing. A nonrefundable fee shall be assessed for every appeal filed for review by the council. Appeal fees shall be set by resolution of the council and shall be paid at the time the request for appeal is filed with the town clerk.

(7) Permit for Approved Variance. No permit will be issued until the appeal period has ended. [Ord. 383 § 2, 2011; Ord. 372 § 17, 2009]

### **18.10.180 Restrictions, limitations, and requirements.**

The restrictions, limitations, and requirements provided for in this chapter are in addition to, and not in limitation of, any restrictions, limitations, and/or requirements benefiting or exercisable by any person, class of persons, or corporation and derived from or through any contract, deed, or covenant preexisting this chapter. [Ord. 372 § 18, 2009]

### **18.10.190 Enforcement and penalties.**

(1) No person, firm, corporation or association shall cause any building or other structure to be constructed or located in any manner as will result in a violation of this chapter, as amended. If the town building official shall find any building or other structure being so constructed or so located, said official shall order the work stopped by notice in writing to persons engaged in doing such work or causing such work to be done. Such notice shall be posted on the premises and provided to the owner stating the violation(s) and/or possible corrective action; all work shall be stopped until authorization to proceed is granted by the building official.

(2) Violation of any of the provisions of this chapter, as amended, shall be a civil infraction and any person found to have committed such a violation shall be subject to a civil penalty in an amount not to exceed \$100.00. It shall be a separate infraction for each and every day or portion thereof during which any violation of any of the provisions of this chapter, as amended, is committed, continued, or permitted.

(3) Any building or structure hereafter set up, erected, built, moved, or maintained, or any use of property contrary to the provisions of this chapter, as amended, shall be deemed a public nuisance. The town shall commence action immediately to abate such nuisance, in the superior court or in some other court of competent jurisdiction. [Ord. 372 § 19, 2009]

### **18.10.200 Repeal or amendment of this chapter.**

Repeal or amendment of this chapter requires prior review by the town's planning commission, as established under Chapter 35.63 RCW, as amended. [Ord. 372 § 20, 2009]

### **This page of the Beaux Arts Village Municipal Code is current through Ordinance 390, passed November 8, 2011.**

Disclaimer: The Town Clerk/Treasurer's Office has the official version of the Beaux Arts Village Municipal Code. Users should contact the Town Clerk/Treasurer's Office for ordinances passed subsequent to the ordinance cited above.

Municipal Website: <http://beauxarts-wa.gov/> Municipal Telephone: (425) 454-8580  
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