

BIRCH BAY VILLAGE COMMUNITY CLUB

ARCHITECTURAL RULES AND REGULATIONS

As adopted by the Birch Bay Village Board of Directors on

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These Architectural Rules and Regulations (AR&R'S) replace all Architectural Guidelines and Revisions.

ACC RULES AND REGULATIONS CHANGE LOG

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DEFINITIONS

1. **Attached Structure** - A garage, porch, or other structure having all or part of one or more walls common to a single family dwelling.
2. **Back Fill** - The placement of earth or selected other material, such as sand, gravel, crushed aggregate, or rock in an excavated void.
3. **Boat Prop** - A temporary or permanent support used to keep land-stored boats upright that is not a boat trailer.
4. **Single Family Dwelling Impervious Coverage** - The percent of ground area occupied by a single family dwelling, its eaves, garage and structures. It shall also include the area covered by any carport in lieu of a garage, whether the area under the carport is hard surfaced or not.
5. **Common Property** - Property owned and administered by the Birch Bay Village Community Club which is the corporate entity governing and administering the rights and privileges of all owners (members thereof, of the Birch Bay Village Community Club) of private property in Birch Bay Village.
6. **Easement** - A vested or acquired right to use land other than as a tenant, for specific purpose, such right being held by someone other than the owner who holds title to the land.
7. **Exterior Renovations** - Remodeling, reconstruction, alterations or additions, which increase the size or alter the exterior elevation or appearance of structures on the lot.
8. **Factory Built Home** - A home that is largely built someplace else usually in modules and then shipped to a site for assembly and permanent installation.
9. **Finished Grade** - The average elevation of the finished ground level at the center of all walls of a structure.
10. **Flagpole** - A pole greater than six (6) feet in height used to raise a flag.
11. **Front Lot Line** - The property line separating a lot from a street right of way. In the case of a corner lot bounded by two streets it is the property line separating the lot from the main street right of way usually the one facing the dwellings main entrance door.
12. **Impervious Material** - Materials, which prevent or seriously impede the natural penetration of water into the ground. Examples include but are not limited to: concrete, asphalt, brick, pavers, close boarded decks/walkways, compacted stone/gravel, etc.
13. **Living Space** – The finished interior area of a single family dwelling meant for human habitation. It does not include garages, carports, storage sheds, etc.
14. **Lot Line** - A boundary of a lot as determined by a licensed surveyor, commonly called a property line.
15. **Manufactured Home** – Also called a mobile home and is constructed almost entirely in a factory. The home is placed on a steel chassis with wheels, transported to the building site and semi permanently attached. The wheels can be removed but the chassis stays in place.
16. **Natural Ground Level** – The undisturbed surface height of a lot prior to improvement.

- 17. Parking Space** - A minimum area of ten (10) feet by twenty (20) feet used for temporary storage of motor vehicles, boats, etc.
- 18. Private Property**- Property within the BBVCC that is owned by individual member(s).
- 19. Project Applicant**- For private property it is the owner(s) or person responsible to act for the ownership entity. For common property it is normally the BBVCC Manager on behalf of The Board of Directors.
- 20. Rear Lot Line** - The property line, which is not a front or side lot line.
- 21. Remodeling** - Adding or replacing more than 30% of a structure.
- 22. Retaining wall** - A wall designed to resist the lateral displacement of soil or other material.
- 23. Setbacks** - Required minimum distances from property lines to structures exceeding a specified height.
- 24. Side Lot Line** - The two (2) property lines that intersect the front lot line. These property lines separate the lot from the adjacent left/right lots or the non main street right of way as applicable.
- 25. Single Family Dwelling** - A structure (commonly called a home/house) designated to accommodate one household only and, among other things, may contain only one kitchen.
- 26. Stick Built Home**- A home that is constructed piece by piece on the building site where it will remain.
- 27. Storm Water** – Water that originates from weather related precipitation events such as rain or snow/ice melt.
- 28. Story Pole** - Vertical line drawn on an elevation plan, illustrating, with dimensions in feet and inches, the actual structure finished height and allowable height, as determined by a survey, which is measured from a spike in the road surface.
- 29. Structure** - Structure means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner. Structures are generally permanent in nature and attached to the ground or other structures in such a manner that they are not intended to be moved. Examples include but are not limited to: A home, detached garage/carport, storage shed, fence, privacy screen, flag pole, deck, patio, propane tank enclosure, dock, retaining wall, gazebo, pergola, trellis, concrete work, large playground set, carport, wind screen, exterior stairs, and observation platforms.
- 30. Undue Hardship** - Undue hardship exists when the AR&R deny the property owner all reasonable use of his property.
- 31. Variance** - A modification of the terms of the AR&R when it is demonstrated that an undue hardship exists.

BIRCH BAY VILLAGE COMMUNITY CLUB (BBVCC)
ARCHITECTURAL RULES AND REGULATIONS (AR&R)

1 ARCHITECTURAL CONTROL COMMITTEE (ACC)

1.1 PURPOSE

To create and maintain an aesthetically desirable community by encouraging:

- a. Sensitive architectural design.
- b. Quality workmanship and materials.
- c. Harmony of exterior appearance.
- d. Compatibility of topography and finish grade elevation.
- e. Preservation of the natural environment.

1.2 SCOPE

The ACC reviews all private and common property projects that create, or replace an exterior structure or renovate the exterior of an existing structure. This review includes renovation projects that are predominately interior to a structure but result in an exterior height or plane change such as a roof dormer or wall “bump out”. Routine repair does not require ACC project review: examples include but are not limited to complete/partial re-roofing, residing, repainting and fence post/slat replacement. Routine repair **does not** include: replacement of structures. Replacement or exterior renovation of existing structures must comply with the current AR&R’s except for:

- a. Those built in compliance with an existing variance.
- b. Those previously approved by the ACC and built in compliance with prior AR&R height determination rules.

The ACC also reviews projects for tree removal and lake bank reinforcement. Additionally, the ACC resolves objectionable exterior lighting disputes, and makes recommendations on AR&R variance requests.

The ACC has final determination if a project review is required or not.

1.3 COMMISSION

No new structure, replacement structure, exterior renovation, tree removal or lake bank reinforcement can commence in Birch Bay Village (BBV) without an ACC project approval.

It is recommended that a qualified professional prepare construction documents: construction plans, materials list and site plans. Self prepared documents for less complex projects are allowed provided they are clear, easily readable and comply with AR&R requirements.

1.3.1 STRUCTURE RESTRICTION

The ACC and or Board of Directors can restrict or prohibit the creation, replacement or change to any structure even though such a structure is not otherwise restricted or prohibited herein. The ACC/Board of Directors will base their determination on their sole discretion that such structure would be detrimental to Birch Bay Village.

1.4 MEMBERSHIP

The Architectural Control Committee shall be comprised of seven members appointed by the Board of Directors. Four members will constitute a Quorum. The ACC will appoint a Chairperson.

1.5 RESPONSIBILITY

The ACC is only concerned with overall planning, specific site considerations and aesthetic quality for the contents of section 1.2. In no way shall the ACC confirm assumed geological conditions, structural methods proposed, adequacy of design/engineering, nor the general adequacy or safety of any section 1.2 item that it discusses or reviews. Private property owners or in the case of common property, the BBVCC Board of Directors, are solely responsible for all aspects of their AR&R projects.

2 PROJECT APPROVAL PROCESS

2.1 APPLICATION

The approval process is initiated by project applicants obtaining the appropriate ACC Project Request Checklist from the BBVCC management office. Next, applicants complete sign and submit the checklist with required documents to the management office with applicable fees and bonds. The management office reviews all project submittals for completeness and compliance with the AR&R. Project submittals are considered complete and ready for ACC review once applicants have complied with all management office review comments.

Private property project applicants are the property owner(s) or person(s) responsible to act for the ownership entity. Private property applicants can designate an agent to represent them for a specific AR&R project. The agent designation must be in writing to the BBVCC management office and contain:

- a. The agents name, address and phone number.
- b. The project to which the agent designation applies.
- c. The division and lot number for the project.
- d. Signature of the property owner.

For common property projects the person responsible for project application on behalf of the BBVCC Board of Directors is the BBVCC Manager.

The BBVCC management staff is available to answer project application questions. The staff is not responsible for checklist completion or supporting documents. Project applicants are responsible for all project checklist completion, supporting documents, fees and bonds.

2.2 REVIEW

The ACC reviews submitted projects and approves or disapproves them in writing. The written approval or disapproval is sent to the project applicant by the BBVCC Manager. In the event the ACC fails to approve or disapprove within sixty (60) days any project for which all-applicable provisions of the AR&R have been met, the project is considered approved.

2.2.1 PROJECT COMMENCEMENT

Work on any project shall not commence until approval is given by the ACC and written confirmation from the BBVCC Manager, is received by the applicant unless the section 2.2 applies.

2.3 SCHEDULE

The regular ACC meeting is held on the first Tuesday of each month at 7:00pm, in the BBVCC Club House. The ACC may hold additional meetings at its discretion. To be on the regular meeting agenda, completed project submittals must be ready for ACC review per section 2.1. Completed project submittals (checklist, required documents, fees and bonds) must be received by the BBVCC management office no later than six (6) working days (not including Sat, Sun, or holidays) prior to the first Tuesday of the month. Projects submitted late will be held for the next regular ACC meeting. Submit project checklists, documents and fees to:

**BIRCH BAY VILLAGE COMMUNITY CLUB OFFICE
8055 COWICHAN ROAD
BLAINE, WA 98230**

2.4 EMERGENCY SMALL PROJECTS

The ACC may review projects for minor structures such as fences, storage sheds, tree removal, etc. when the estimated value does not exceed \$3000 and the project is deemed an emergency by The BBVCC Manager and ACC Chairperson. The review and approval/disapproval process is as follows:

- a. The project request must not deviate in any manner from the AR&R.
- b. The ACC Chairperson establishes a meeting date, time and location and the BBVCC Management Office makes a reasonable attempt by phone to contact all ACC members. Project approval may be given by a minimum of three (3) committee members of which one must be the chair or vice chairperson.
- c. Approval of those committee members present, if less than four (4), must be unanimous. Should any ACC member object to the project for any reason the project must be presented at the next regular meeting of the ACC.

2.5 ADMINISTRATIVE FEES

To defray expenses, fees are assessed as listed in The BBVCC Fee Schedule. Fees are payable at the time of project application and must be received not later than six (6) working days prior to the next regular ACC meeting. The ACC will not review any item for which the fee has not been received by the BBVCC management office. Fees are non refundable once the ACC has approved the associated project. Fees are refunded for projects which the ACC disapproves.

The fees in The BBVCC Fee Schedule are established by the BBVCC Board of Directors and are subject to change without notice.

2.6 PERFORMANCE BONDS

To ensure compliance with the AR&R, performance bonds are required as listed in The BBVCC Fee Schedule. Bonds are payable at the time of project application and must be received not later than six (6) working days prior to the next regular ACC meeting. The ACC will not review any item for which a performance bond has not been received by the BBVCC management office. Failure to comply with the AR&R and or ACC approved project documents may result in complete or partial forfeiture of the performance bond.

Performance bonds for ACC approved projects are retained by the BBVCC until the associated project is complete. Bonds for ACC disapproved projects are returned to the project applicant. Upon project completion applicants obtain a form from the BBVCC management office to request the return of their performance bond. The BBVCC Manager will verify that all project work has been completed in accordance with the approved project and return the

performance bond to the applicant.

The performance bonds in The BBVCC Fee Schedule are established by the BBVCC Board of Directors and are subject to change without notice.

2.7 REQUIRED PROJECT DOCUMENTS

Required documents are dependant on the type and scope of the project. Generally, major projects require professional design/engineering services and county permits such as new homes, garages, most exterior renovations, retaining walls, and carports. Minor projects generally can be completed using vendor/owner supplied designs and materials such as storage sheds, fences, culverts/catch basins, concrete work, decks, etc. Checklists for ACC projects are developed and maintained by the BBVCC management office. The BBVCC management office will assist in determining what section below applies to a project and provide the proper ACC checklist.

Any modification of approved plans must be submitted to the BBVCC Manager. The manager will review the changes and either approve or submit the change to the ACC for approval. All such modifications must conform to the AR& R'S.

A copy of any required Whatcom County building permit (The County permit stamp on plans is acceptable.) must be provided to BBVCC management office prior to commencement of any approved project. This permit copy will be maintained with submitted plans on file at the BBVCC office.

2.7.1 MAJOR PROJECT REQUIREMENTS

- a. ACC Project Checklist.
- b. Two (2) copies of a Lot Plat Survey Map from a State of Washington licensed surveyor. The survey map must show the location and heights of all 15 points taken and used to determine the average ground level as described in Section 3.5. In the case of an exception when not all 15 points are taken, the surveyor must provide an explanation.
- c. Two (2) complete sets of construction plans and specifications. The plans shall include elevation drawings showing height on the lot of all new, replacement, and exterior renovation structures. The plans shall be of an appropriate scale (recommend 1/4" = 1'). Typical construction sections and elevations must be sufficient to show methods of construction and exterior building materials. The specifications must be sufficient to explain the quality and expected performance standards of proposed structure or structures.
- d. A construction materials list and color schemes for roofs and all visible exterior surfaces.
- e. Site plan showing all existing and proposed structures, where all corners are located on the lot, all lot lines and setbacks to proposed and existing structures, and the method used to arrive at the maximum building height. Additionally, the plan shall be of appropriate scale (recommend 1/8" = 1') noting division and lot numbers and illustrating location and dimensions in feet of proposed structures, locations of ingress and egress surfaces, future outdoor lighting, proposed screening of vehicles, storage, north arrow for orientation with direction of views, location of trees six (6) inches or more in diameter at twelve (12) inches from the ground which the owner proposes to remove.
- f. For new homes an initial landscape ground cover shall be included in project documents. The intent of the initial ground cover is to timely provide a favorable lot appearance and protect against soil erosion. The initial ground

cover must be compatible with expected weather elements.

- g. For new homes and exterior renovations that increase the lot coverage, all lot corners must be staked. Also, the corners of the proposed structure including the corners of any proposed deck area must be staked and strung with a string between each stake. All staking must be complete no later than six (6) working days prior to the next regularly scheduled ACC meeting.

2.7.2 MINOR PROJECT REQUIREMENTS

- a. ACC Project Checklist.
- b. A survey map per section 2.7.1 b is not required if there is an existing survey or the project plan elevation drawing shows the project height not exceeding the existing single family dwelling height.
- c. Two (2) complete sets of construction plans and specifications. The plans shall include the elevation for all above ground structures.
- d. Site plan showing all existing and proposed structures, where all corners are located on the lot, and all lot lines and setbacks to proposed structures. The location of trees six (6) inches or more in diameter that are proposed for removal must be shown. Normally an existing site plan that was used for construction of the home can be modified for use.

2.7.3 TREE REMOVAL PROJECT REQUIREMENTS

- a. ACC Project Checklist.
- b. Site plan showing all existing structures and the specie (maple, pine, fir, oak, etc.) and location of the tree(s) to be removed.
- c. A written explanation as to why the tree is being requested for removal.

3 PLANNING AND CONTROL RULES & REGULATIONS

3.1 ACCESS

No lot shall have or maintain access to any county or public road that is not owned and maintained by the BBVCC.

3.1.2 RESERVATION OF EASEMENTS

Easements for drainage, sewers, water pipes and utility companies and service, (including but not limited to water supply, electricity, gas, telephone, and television) are reserved over, under, upon, in, and through a two (2) foot, six (6) inch wide strip along each side lot lines and the front and rear five (5) feet of each lot, tract or parcel of Birch Bay Village, in which to install, lay, construct, repair, renew, operate, maintain and inspect underground pipes, sewers, conduits, cables, wires, and all necessary facilities and equipment, for the purpose of serving Birch Bay Village and any other land adjoining, contiguous or adjacent that they be impressed by a member or agent of Birch Bay Village Community Club with these AR&R'S together with the right to enter upon such easement areas, lots, tracts, parcels, roadways and walkways for or pertaining to the previously mentioned.

3.2 PROPERTY VERIFICATION

All new home construction requires a legal survey. New structures or exterior renovations to existing structures require a legal survey if there is any doubt as to encroachment on adjacent properties or setbacks. The purpose of the survey is to verify all property corners. A Washington State licensed surveyor employed by the property owner must perform the

survey.

The ACC at its discretion may require a survey for any private or community property project and if requested will be paid for by the applicant and supplied with ACC project application.

3.3 RESIDENTIAL PURPOSES ONLY

Each lot, tract or parcel shall be used only for single-family residential purposes unless otherwise provided. No structure of a temporary character, trailer, motor home, fifth wheel, basement, tent, shack, garage, barn, etc. shall be used or placed on any lot, tract or parcel at any time as a residence, except Mobile Homes for residential purposes may be located on any lot, tract or parcel which is designated as a Mobile Division lot, in accordance with the Declaration of Rights, Restrictions, and Covenants of Birch Bay Village.

3.3.1 SIZE REQUIREMENT

New single story non-manufactured/mobile homes must have a minimum of fourteen hundred (1,400) square feet of main living space. New greater than one-story non-manufactured/mobile homes must have a minimum of one thousand (1,000) square feet of living space on the main floor. The total square footage for new non-manufactured/mobile homes greater than one story is a minimum of seventeen hundred (1,700) square feet of living space. See section 5.2 for minimum square footage requirements for manufactured/mobile homes.

3.3.2 GARAGES/CARPORTS

Garages must match existing house in style, material, and color. Carports are not allowed except in Divisions 7 and 12M.

Garages/Carports in Divisions 7 and 12M must be permanent type structures that comply with the following:

- a. Have a hard surface floor such as concrete or compacted stone.
- b. Utilize permanent ground attachment such as concrete reinforced footings and stem wall.
- c. Roofs, walls, and doors made from fabric, plastic sheet panels, or similar materials are prohibited.
- d. No Quonset Huts or structures of a temporary nature are allowed.

3.4 LOT LINE SETBACKS

The following setbacks pertain to all BBVCC lots except for the rear lot line requirements for lots described in section 4:

- a. Homes on lots (except Division 7) must be setback twenty five (25) feet from front and those side lot lines that parallel BBVCC streets. In Division 7 the home setback from the front lot line is twelve (12) feet. The maximum height in these setback areas for any type of structures is four (4) feet from the natural ground level.
- b. The maximum height on lots in setback areas (other than item 3.4.a above) for fences and detached walls and windscreen type structures is six (6) feet from the natural ground level.
- c. No home or part of a home (except roof overhangs of 18 inches), such as a small cantilevered room, bay window, chimney, stairway, or any other structure may be erected nearer than five (5) feet from any side or rear lot line. Part of a

home such as a small cantilevered room, bay window, chimney, stairway or roof overhang may extend up to two feet into the twenty five (25) and twelve (12) foot setback areas of item 3.4.a above.

3.5 HEIGHT RESTRICTIONS

This section primarily applies to new and existing homes but also applies to any other structure which a lot owner may propose. Allowable structure height must be established by a Washington State licensed surveyor as a part of the legal survey for property verification described in section 3.2.

3.5.1 ALLOWABLE HEIGHT

No new structure or exterior renovation to an existing structure is allowed that exceeds eighteen (18) feet in height from the average elevation of the natural ground level except:

- a. The maximum structure height on lots located in the areas of the 100-year flood plain shall be eighteen (18) feet above the Base Flood Elevation (BFE) of eight (8) feet.
- b. If requested by the owner a vacant lot may be approved to exceed the 18 foot maximum height requirement along the BBVCC fence lines as follows: (1) north side of Salish Road, from Division 4, lot 72, thru Division 11B, lot 2; (2) west side of Quinault Road, Skagit Way, and Skagit Place from Division 12 lot 9 thru 16, Division 12A lot 1 thru lot 7 and Division 12C Lot 88 thru 93 and Lot 97 thru 99. To obtain approval owners must fulfill all requirements of the AR&R, including the requirement to seek a variance.

No structure per section 3.5.1 a and b above may be built in excess of twenty five (25) feet above average ground level, or twenty six (26) feet above BFE. A normal project application plus a variance request must be submitted to the ACC for review. The variance requires final approval by the BBVCC Board of Directors before the project can begin.

- c. Homes built in compliance with an existing height variance may maintain that variance for replacements or exterior renovations.
- d. Homes previously approved by the ACC and built in compliance with prior AR&R height determination rules may maintain that established height for replacement or exterior renovations.

Material brought in or relocated within a lot shall be disregarded when determining natural ground level. Average elevation shall be determined by fifteen (15) topographic measurements taken at natural ground level within the perimeter of the lot. Said measurements shall be taken, as much as possible, in a grid fashion. The grid will be established with five (5) points on each long perimeter axis of the lot and five (5) points on the long central axis (including all corners). Unusual changes in elevation should be ignored such as lakeside lots staked at waters edge below steep banks or other precipitous changes in elevation such as lots on the west side of Chehalis commencing at lot 1, corner of Chehalis and Sehome, in such instances the nearest point to natural slope of lot remainder shall be taken.

When a lot has exceptional topographic conditions, the owner may apply for a variance from the restrictions, limitations and or measurement procedures in the AR&R.

3.5.2 HEIGHT DEPICTION

Project plans must contain a “Story Pole” illustrating the elevation of the proposed structure and allowable elevation determined by the survey. The “Story Pole” must also show the height allowed from the Natural Ground Level and the ground level finished floor elevation when applicable. The surveyor is required to drive a spike in the blacktop road in front of the lot circled with red paint. Adjacent to the spike in red paint the surveyor will show the allowable height of the structure above that spike and the actual national geodetic vertical datum (NGVD) elevation.

3.5.3 HEIGHT CERTIFICATION

For new homes and those exterior renovations proposed to exceed existing structure heights, the owner will make two written height certifications when applicable as follows:

- a. Upon completion of any foundation/floor slab excavation the owner will certify in writing to the BBVCC Manager that the structure height will not exceed the maximum height established in the project plans approved by the ACC. If certification is not received prior to foundation/floor slab installation, the project will receive a stop work order.
- b. Prior to setting roof trusses/roof ridge beam(s), the owner will certify in writing to the BBVCC Manager that said trusses/roof ridge beam(s) will not cause the structure to exceed the maximum height established in the project plans approved by the ACC. If the certification is not received prior to the setting of the trusses/roof ridge beam(s), the project will receive a stop work order.

3.6 HOME/LOT COVERAGE RESTRICTIONS

3.6.1 SINGLE FAMILY DWELLING COVERAGE

The impervious square foot area of the dwelling, its eaves, attached structures and garage/carport shall be no more than thirty five (35) percent of the lot. The square foot area of the lot and the dwelling shall be shown on the site plan.

3.6.2 LOT COVERAGE

The total impervious lot surface coverage must not exceed fifty (50) percent. The impervious surface calculation includes the single family dwelling coverage plus all other impervious surface material areas on the lot. The square foot area of the lot and the square foot area of the total impervious coverage shall be shown on the site plan.

3.7 PROJECT REQUIREMENTS

3.7.1 TIMELINES

ACC approved projects must begin within twelve (12) months from the date of the BBVCC Managers written notification to the owner of ACC project approval. Projects that do not begin within 12 months must be resubmitted to the ACC for a new approval.

For structures, the exterior including paint or other suitable finish must be completed within six (6) months from commencement of construction. Construction is deemed to have commenced with the first construction activity. The ACC may grant extensions. Requests for extensions must be submitted to the ACC in writing by the owner prior to expiration of the six-(6) month construction period.

Upon project completion the owner must request final inspection by BBVCC management office. The sole purpose of this inspection is to ensure the project complies with what the ACC approved and the AR&R. In no way does this inspection replace, amend or supplement any state or county required inspections nor does this inspection certify or make any statement relative to the adequacy of the construction, design/engineering, safety, etc. of the project.

3.7.2 COMPLIANCE

Projects must be accomplished in accordance with the AR&R and as approved by the ACC. Projects which fail to comply with what the ACC approved and or the AR&R will result in the BBVCC Manager taking one or more of the following actions on behalf of the BBVCC Board of Directors:

- a. Issuance of a stop work order at the first sign of non compliance which the owner does not correct within twenty (24) hours. An immediate stop work order maybe issued when necessary.
- b. Retaining all or a portion of the project bond.
- c. Requiring the removal of all structures/materials related to unauthorized work and return of property to its original condition.
- d. Notifying the BBVCC Board of Directors of the property owner's non-compliance and action taken.
- e. Recommending to the Board of Directors a fine assessment in excess of the project bond and or legal action.

The BBVCC Manager in determining what action to take will normally seek an ACC opinion and recommendation. For time sensitive flagrant violations the manager may elect to work directly with the board.

3.8 LANDSCAPING

For new non manufactured/mobile homes or their exterior renovations an initial landscape ground cover must be completed no later than eight (8) months after the home or exterior renovation start. For manufactured/mobile homes the initial landscape ground cover must be completed no later than 90 days from the homes placement on its foundation. Application of the initial ground cover is to provide for a neat lot appearance and protection from erosion. Additional landscaping such as plantings, garden walls and other enhancements are at the lot owner's discretion. Additions of structures not included with the project documents must first be approved by the ACC.

3.9 RETAINING WALLS

Plans for retaining walls greater than three (3) feet in height shall be approved by a Washington State licensed structural engineer. Plans for walls under two feet (2) in height do not require ACC approval. Walls exceeding two (2) feet in height require ACC approval. Retaining wall height is determined by a measurement from the bottom of the stem wall/first base block layer(which maybe below grade) to the top of the wall. Tall retaining walls with a flat single plane are to be avoided. Low multi-plane retaining walls are encouraged. Retaining walls shall not exceed 5 feet in height nor be closer than 5 feet apart. Additionally, concrete block retaining wall modules are to be no greater than 8" X 16" and cinder blocks in excess of one (1) foot in height are not allowed

3.10 EXTERIOR FINISHES

All exterior materials and finishes must be compatible with existing structures in the area this includes siding, roofing, driveways, patios, trellises, decks, etc. BBVCC does not specify exterior paint or stain colors but requires that such colors be in good taste and compatible with existing structures in the area. Home facades facing the street(s) must have a minimum of two colors (one body color and one trim color).

3.11 HOUSE NUMBERS

All homes will display their street address numbers. These numbers must be three-and-one-half (3 1/2) inches tall or larger and displayed on the home so that they are visible from the homes main entrance street. Additionally, mailboxes must legibly display their respective home street numbers.

3.12 SATELLITE DISHES

Installation plans to include lot location for dish type antennas (satellite dishes), exceeding three (3) feet in diameter, must be approved in writing by the ACC, prior to installation.

3.13 FLAGPOLES

A maximum of two flagpoles are allowed on a lot that contains a single-family residence. The height restriction provisions in sections 3.4 and 4 do not apply to flag poles. Flagpoles cannot be erected nearer than five (5) feet of any lot line. A flag pole can only be a single pole that:

- a. When attached to the ground does not exceed eighteen (18) feet in height as measured from the pole/base structure natural ground level entry point to its top including any cap ornament.
- b. When attached to a surface other than the ground (example: deck/patio) cannot exceed the roof height of the residence.
- c. Is round or oval shaped with an outside diameter not greater than six (6) inches and is adequately anchored to its surface.
- d. Is constructed of metal, fiberglass or other durable non wood material.

3.14 WIND TURBINES

Wind turbines used to generate electrical power are not allowed in the BBVCC.

3.15 MARINA/LAKE/POND STRUCTURES

Boat houses and dock sheds are not allowed on any BBVCC waters. Docks are only allowed in the BBVCC marina and on Kwann and Thunderbird lakes. The following applies to Kwann and Thunderbird lake docks:

- a. The dock plans must include the method of dock access from the lake bank (ramp, stairs, etc.).
- b. The docks shall be floating. Fixed piling type docks are not allowed. To minimize the protrusion into the lake, the dock shall be parallel to the shoreline when possible and shall only be far enough from the shoreline to keep the floats from resting on the bottom.
- c. The maximum size is six (6) feet wide and twelve (12) feet long. They shall be constructed of materials appropriate for a marine environment. If pressure treated lumber is used, floatation shall be sufficient enough to keep the treated lumber from making contact with the water.
- d. Floatation shall be made of closed cell foam covered with an impervious material or equivalent. Metal drums, logs or other flotation materials or devices are not allowed.

- e. The dock shall be held in place with a method to insure it will remain in place in the highest winds and with the up and down lake levels.
- f. The owner(s) of the dock will sign a hold harmless agreement to release BBVCC from legal action as a result of any incident involving the dock. The owner(s) will also present proof of current liability insurance and agree to maintain such insurance coverage.
- g. No docks are allowed on vacant lots.

3.16 GOLF BALL SCREENING

Golf ball screening that exceeds AR&R height restrictions may be approved for lots which abut the golf course. To obtain approval to construct golf ball screening a normal AR&R project request is submitted along with a variance request for the appropriate AR&R height limit. The AR&R variance request provisions that require notification of property owners within 300 feet is modified to require notification of only those property owners who are immediately adjacent to the proposed structure and those whose views will be impacted. All other provisions of the AR&R variance procedure apply. The following is required for all golf ball screening projects:

- a. The plans for the screening structure must be approved by a Washington state licensed professional structural engineer.
- b. The screen height cannot exceed sixteen (16) feet as measured from the ground to the top of the structure's highest point.
- c. Supporting posts must be metal and powder coated flat black.
- d. The screening net material must be black in color and designed to repel golf balls.
- e. The screen posts must be attached to the ground and set back from property lines a minimum of 5 feet.

3.17 PROPANE TANKS

Location, construction and installation of propane tanks must conform to governmental regulations and may not be less than ten (10) feet from any lot line. Individual propane tanks in Divisions 7 and 12M must have a minimum capacity of twenty-five (25) gallons. Individual propane tanks in all other divisions must have a minimum capacity of fifty (50) gallons.

Propane tanks shall be either buried in the ground or enclosed on at least enough sides so as to obscure the tank from view from the road or any other lot. Enclosures shall be fire resistant materials with the bottom eight (8) inches above ground and painted to match the house. Corner posts shall be no greater than four (4) inches by four (4) inches nominal dimension. There shall be no cover of the enclosure permitted. Alternative enclosures can be fireproof materials such as concrete or brick masonry.

3.18 EXTERIOR LIGHTING

The purpose of exterior lighting is for safety, security and aesthetics or any combination thereof. The ACC recognizes that subjective judgment is required to determine the type and intensity of exterior lighting allowed in a given circumstance. Exterior lighting must be designed and installed to direct the light beam downward to shine (including reflection) only on the owner's lot and not adjacent lots or homes.

If exterior lighting is found to be objectionable by neighbors they have the right to appeal to the ACC for review. In its review the ACC is concerned with the interests of the individual property owner and neighbors. The desired review outcome is that open good neighbor discussion will result in a solution acceptable to the owner and their neighbors. In the event differences cannot be resolved the ACC will make a decision which is binding.

A maximum of two driveway illumination lights are allowed on a lot that contains a single family residence. The height restrictions of sections 3.4 and 4 do not apply to driveway illumination lights that exceed four (4) feet in height, comply with section 3.18 above and the following:

- a. Are mounted on a round or oval shaped pole with an outside diameter not greater than six (6) inches. The pole must be metal, fiberglass or other durable non wood material.
- b. Do not exceed eight (8) feet in height as measured from the pole natural ground level entry point to its top including any cap ornament.

4 STRUCTURES AND PLANTING RESTRICTIONS FOR CERTAIN PROPERTIES

This section applies to any structure or planting on lots in which the rear property line abuts or runs parallel to the BBVCC marina, Kwann and Thunderbird Lakes, the Golf course or the “Beaver Pond” and its upper feeder creek to Salish Road. Lots contiguous to the above defined landforms must conform to the AR&R and the following:

- a. Structures, such as bulkheads, must also receive approvals as required by all relevant regulatory authorities and government agencies and is the sole responsibility of the lot owner.
- b. Structures exceeding three feet (3) above natural ground level must be setback a minimum of thirty-five (35) feet from the rear property line except; part of a home such as a small cantilevered room, bay window, chimney, stairway, or roof overhang may extend up to two (2) feet into the thirty-five setback area.
- c. Within the above section 4.b thirty-five (35) foot setback, no trees, plants, shrubs, bushes or other vegetative matter may extend above four (4) feet from natural ground level, and must be maintained at or below that level.
- d. In addition to the AR&R, Government agencies may require more stringent setback requirements near environmentally sensitive areas such as Birch Bay, the ‘Beaver Pond’, and BBVCC lakes.
- e. Lots exempted from the thirty-five (35) foot setback regulation: Div. 11C, Lots 14 through 20 and Div. 14, Lots 14 & 15.

5 SINGLE FAMILY DWELLING TYPES

5.1 STICK/FACTORY BUILT HOMES

The construction of stick/factory built homes is encouraged on all lots in BBVCC. Stick built and factory built homes must conform to applicable government building codes. For factory built homes a Letter of Certification or other suitable documentation from a Washington State Licensed Inspector is required for all components not constructed on the homes lot.

Except in Divisions 7 and 12M “Box-like” homes are prohibited. Front elevations facing the main street outside of Divisions 7 and 12M shall consist of a minimum of three (3) planes offset by at least two (2) feet and be a minimum of five (5) feet wide.

5.2 MANUFACTURED/MOBILE HOMES

Manufactured/mobile homes are only allowed on the lots within Division 7 and 12M. Additionally, the following applies to lots within Division 7 and 12M:

- a. Travel trailers, recreational vehicles, and park models shall not be construed to be a mobile and or manufactured home.
- b. A manufactured/mobile home, before being occupied, must be connected to the local commercial electrical power provider and county water and sewer service.
- c. The manufactured/mobile home foundation and tie down system must be approved by Whatcom County.

- d. Skirting must be installed around the base of manufactured/mobile homes within ninety-days (90) after the homes placement on its foundation.
- e. Manufactured/mobile homes greater than five (5) years old at the time of initial placement must be approved by the ACC to be acceptable in appearance.
- f. Manufactured/mobile homes that are placed on lots in Division 7 must have an interior area of at least seven hundred (700) square feet. Those placed on lots in Division 12M must have an interior area of at least one thousand (1,000) square feet.

6 STORAGE

Each home is required to maintain a screened storage area that blocks visibility of items such as garbage cans, garden tools, freezers, bicycles, etc. from BBVCC streets.

6.1 STORAGE STRUCTURES

These structures are commonly referred to as storage sheds. Sheds can be purchased already built, as kits or can be individually constructed as long as they conform to the following:

- a. Have peaked roofs compatible with the existing house, but not less than 3/12 pitch.
- b. Not exceed 144 square feet in interior size.
- c. Use construction materials and exterior color schemes the same as the existing home or be constructed of wood and painted/stained in an unobtrusive color.

7 OFF STREET PARKING AND DRIVEWAYS

Garages are encouraged and strongly advised for vehicle parking.

7.1 SPACES

Two (2) off street parking spaces are required for each private lot. These spaces are in addition to any parking on the lot for RV storage. Each parking space shall be a minimum of ten (10) by twenty (20) feet in size.

7.2 DRIVEWAYS

The owner shall pave each driveway from the edge of the asphalt roadway to the property line. The remainder must be paved or graveled. If crushed rock is used the drive must be suitably edged to contain it.

7.3 VACANT LOTS

Parking is prohibited on vacant lots except for those adjacent to the marina that have a private dock. For these vacant lots, owners may park their vehicles when required to access their dock and or boat.

8 CULVERT AND CATCH BASIN PROCEDURES

Only the ACC or their designee the Roads and Drainage Committee (RDC) have the authority to modify the contents of this section for unique lot requirements. The ACC at time of project approval will insure an individual from the ACC, RDC or BBVCC management office is designated to act as project installation monitor. BBVCC management office personnel will assist owners with specific determinations and or questions by acting as the “go between” for the owners and the project installation monitor.

8.1 GENERAL

A culvert with a catch basin(s) is required for all new homes or exterior renovations to existing homes, and new or replacement manufactured/mobile home installation. The culvert must be installed along the entire lot line(s) adjacent to any BBVCC street. Partial culvert installation along a section of a lot line is not allowed. The culvert and its catch basin(s) location shall be shown on the site plan.

8.2 MATERIALS

All culverts shall be made of double walled corrugated polyethylene pipe, solid or perforated as determined by the ACC, RDC or project installation monitor. All catch basins shall be made of pre-cast concrete.

8.3 DIMENSIONS

The minimum culvert diameter is twelve (12) inches and is the normal size to be used. In some areas a minimum size of eighteen (18) inches or larger may be directed by the project installation monitor.

8.4 INSTALLATION

For all culvert and catch basin(s) installation an acceptable plan shall be developed between the builder/owner and the project installation monitor. The plan must include depth, location, low and high spots, grade, backfill material and size and location of catch basin(s). The plan must be approved by the project installation monitor prior to installation.

Improper or poorly installed culvert and catch basin(s) that damage a street shoulder or pavement shall be replaced or repaired at the lot owner's expense.

8.5 INSPECTION

Inspection of each culvert/catch basin installation by project installation monitor or BBVCC management office is required before it is back filled.

8.6 MAINTENANCE

Routine maintenance of installed culverts and catch basins to maintain proper drainage flow is the responsibility of BBVCC. Replacement of installed culverts and catch basins when required is the responsibility of the applicable lot owner. All replacement determinations are made by the RDC.

9 STORM WATER CONTROL

It is the responsibility of each lot owner to control storm water originating from improvements on their lot. For common property the BBVCC Board of Directors is responsible and the BBVCC manager exercises this responsibility on their behalf. The following applies:

- a. Storm water originating from improvements on a lot or common property may not flow directly onto adjacent or nearby properties.
- b. The method of storm water disposal for each lot or common property must be established and shown on the site plan when a structure is first placed on the lot or common property. Once the ACC has approved the new structure project the storm water disposal method can not be changed without ACC approval.
- c. Lots and common property adjacent to BBVCC lakes are encouraged to use them for their storm

water outfalls. All other lots and common property should use existing drainage ditches, drainage pipes or culverts for their outfalls.

- d. Outfall pipes into the lakes must have their outfall ends protected from erosion by erosion control fabric and rock.
- e. All storm water outfalls must be rigid (not corrugated or flexible) plastic non-perforated pipe with a minimum diameter of four (4) inches and must be black when they are visible.

10 LOT REQUIREMENTS

10.1 GENERAL

All lots and their structures exteriors must be maintained in a neat and orderly condition. This includes trees and shrubs which must be kept in a healthy growing condition. Garbage cans and rubbish of all types (brush, logs, leaf piles, and non serviceable patio furniture, appliances, furniture, and cars, etc. can not be stored where it is visible from streets.

No structure which has been partially or totally destroyed by fire, earthquake, flooding or otherwise shall be allowed to remain in such a condition for more than three (3) months from the time of such destruction.

All cuts in the earth, exposed embankments, and bare ground must be graded and smoothed. Bare earth must be graveled, barked or seeded with grass and appropriately maintained.

The bank landscaping on all inside water basins and lakes, whether it is rock or natural materials, must be approved by the ACC (See Appendix A – Standard Design for Bank Reinforcement). Bank beautification will be accepted with the following stipulation: that some planting be placed on the bank slopes to minimize erosion and if any materials such as bark enter into Kwan or Thunderbird Lakes, the owner will be fully responsible to retrieve and replace it. No dirt can be pushed or dumped into water basins or lakes nor can grass clippings, weeds or debris of any kind.

All exposed embankments created by driveway cuts, other general construction or erosion of more than twelve (12) inches or greater than thirty (30) degrees in slope must be corrected by construction of permanent walls consisting of railroad ties, concrete blocks, brick, concrete or rock, and must be esthetically compatible with the site. Slopes of less than thirty (30) degrees require the planting of low growing plants to control soil erosion.

10.2 DURING CONSTRUCTION

A portable toilet on the lot is required for contractor use for new home construction or major exterior renovation. All construction material and debris slash, uprooted stumps, and trees must be removed from the lot. That which is usable, i.e. firewood, must be neatly stacked and stored on the lot. Lot vegetation must be maintained at a presentable level from commencement of construction.

Streets must be kept free of mud, debris, gravel, etc. caused by construction equipment or methods, during construction. This usually requires cleaning of the street(s) at least once each day. BBVCC management office personnel may require the contractor to clean the street(s) more than once per day.

Streets will not be blocked for other than the normal off loading or uploading construction requirements. If street(s) must be blocked for more than thirty (30) minutes the contractor must provide sufficient traffic control personnel (commonly called flaggers) to safely control traffic. BVCC management office personnel may require the contractor to provide additional

flaggers as they deem necessary.

Contractors are restricted to using the lot on which they are building for storage of materials (including fill), equipment, etc., and will not be allowed to trespass on adjoining lots. The only exception is if a neighboring lot owner has given permission to use their lot. This permission must be given thru the BBVCC management office so they can monitor the exact approval(s) given.

10.3 VACANT LOTS

All vacant lots must remain free of all structures, signage, play equipment, tree houses, etc. except for culverts and catch basins when approved by the ACC and section 10.3.1 below.

10.3.1 LANDSCAPE IMPROVEMENTS

Vacant lots may have landscaping improvements when all of the following conditions are met:

- a. Prior to any improvement, a full 15-point height survey must be completed on the property, as set forth in section 3 and the buildable height established with a spike in the street marking the elevation. This buildable height will be used for all subsequent construction on the lot.
- b. The owner must submit an ACC Project plan of all landscape improvements to be performed on the property and must receive ACC Project approval prior to any work being commenced on the lot.
- c. Improvements are limited to the landscape features of soil, grass, shrubs, retaining walls less than three feet in height, and trees only. Nothing else is allowed.
- d. All landscaping projects must meet all AR&R, including compliance with section 9 whenever there is a change in grade or where landscaping will have a potential impact on storm water.

10.4 TREES AND SHRUBS

The planting and maintenance of shrubs and trees is encouraged. The removal of a tree with a trunk greater than nineteen (19) inches in circumference (6 inches in diameter) requires ACC approval. The measurement for circumference is taken twelve (12) inches from the ground. The only trees not requiring ACC approval for removal are Alders, Willows, Cottonwoods, fruit and decorative/hedgerow/foundation type trees such as crabapples, dogwoods, magnolias, and arborvitae. The ACC may require a certified arborist supporting opinion paid for by the lot owner when a trees health is questionable. Unauthorized tree removal shall carry a fine as stated in The BBVCC Schedule of Fines.

10.4.1 SAFETY

Trees or shrubs that block visibility to streets and driveways are a safety hazard. The unsafe condition must be remedied by trimming, topping or limbing as necessary to correct the visibility issue.

10.4.2 VIEW INFRINGEMENT

Trees or shrubs that infringe upon neighbors views are to be dealt with between neighbors. This is a matter of good reason, judgment, and conscience, and is reciprocal between neighbors. Lot owners should keep their trees and shrubs trimmed, de-limbed or topped so as not to infringe on neighbors views.

11 VARIANCES

Variations are the exception rather than the rule. Variations are most appropriate to address unique or special characteristics of the property that prevent all reasonable use under the requirements of the applicable AR&R. These circumstances may include unique topography such as steep slopes, water bodies, or other natural features that are atypical within the Village.

11.1 GENERAL

The ACC may recommend reasonable variance of these AR&R in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained in the AR&R. The ACC will review variance requests by considering whether the request conforms to the intent and purposes of the AR&R and that such request will not be materially detrimental and or injurious to other properties or improvements in the BBVCC.

All variance request applicants must demonstrate that their request satisfies all the criteria set out below:

- a. That the variance is needed to alleviate practical difficulties and undue hardship caused by exceptional topographical conditions or other extraordinary situations or conditions (including size and shape).
- b. That the variance granted shall not constitute a grant of special privileges, be based upon reason of hardship caused by previous actions of the property owner, or previous owner, (including owner selection of building plans too large for the lot), nor be granted for pecuniary reasons alone.
- c. That the granting of the variance will not be materially detrimental and/or injurious to other properties or improvements in Birch Bay Village, and will conform to the intent and purposes of the AR&R.
- d. That the property cannot be reasonably used under the AR&R as written.

Upon finding that the variance request satisfies all of the above criteria, the ACC may recommend to the BBVCC Board of Directors approval of the variance.

11.2 PROCESS

Applicants submit either a complete final project application per section 2 or to save expenses may submit two (2) copies of the following forty five days (45) prior to the next ACC review of the project:

- a. ACC project checklist and variance request.
- b. Preliminary design documents that show the scope of the proposed structure(s) to which the variance applies. These documents must include, dimensioned elevation sectional drawings and a “story pole”.
- c. A site plan that shows the location and dimensions of all structures on the lot including the proposed structure(s) to which the variance request applies.
- d. Any documentation or letter of explanation that the applicant may wish to submit in support of their request.

When a completed section 2 project application with an ACC variance request or items a thru d above have been submitted, the BBVCC management office will issue a Notice Of Public Hearing. The notice must be mailed thirty (30) days in advance of the next ACC meeting to all lot owners whose property lies within 300 feet of the proposed variance. Additionally, the notice must be posted twenty five (25) days in advance of the next Public Hearing on the reader board outside the BBVCC office and on the BBVCC web site.

The ACC conducts the Public Hearing at which time all interested BBVCC members may present their views on the variance request to the ACC. Following the hearing the ACC deliberates and either disapproves the request or recommends approval to the BBVCC Board of Directors. The decision of the BBVCC Board of Directors is sent in writing by the BBVCC manager to the applicant. If approval is granted, and the applicant submitted only items a thru d above the applicant must follow up with a complete project application per section 2. This complete application will undergo normal ACC project review procedures but will not revisit the approved variance decision.

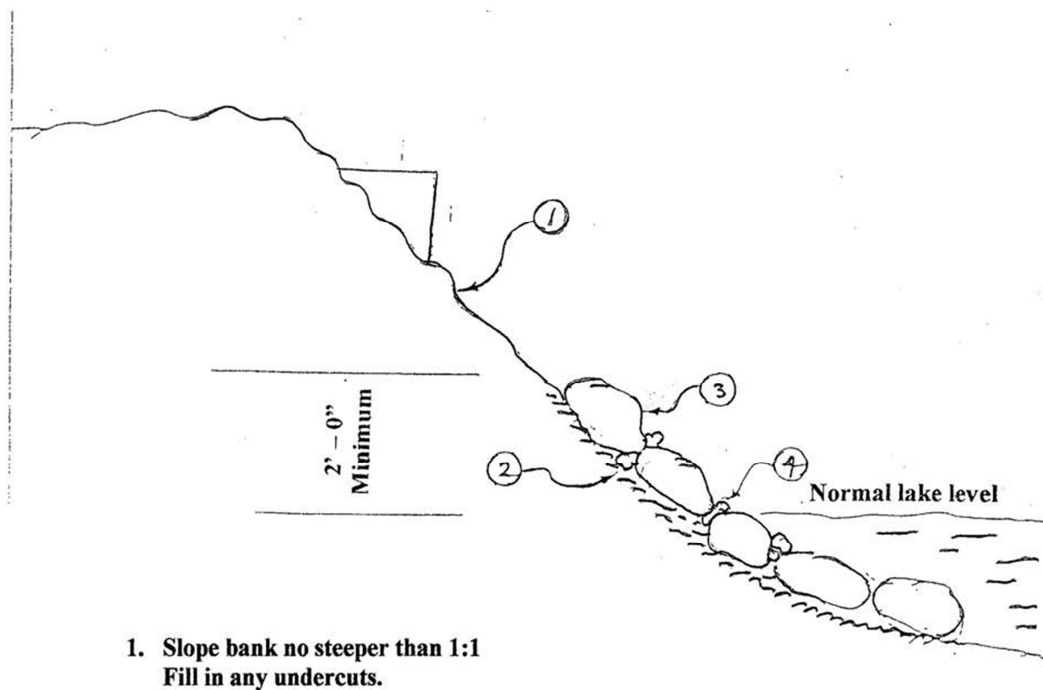
Birch Bay Village Community Club's Architectural Control Committee recognizes that Whatcom County, Washington State and Federal land use policies do change from time to time. When there are conflicting regulations between the Birch Bay Village AR&R and Whatcom County, the more restrictive rules shall govern.

12 PROCESS OF APPEAL

Should the ACC reject any project request, the project applicant may appeal to the ACC at their next regular meeting if they have new information to present. BBVCC members always have the right to appeal an ACC decision to the Board of Directors.

APPENDIX A

LAKE BANK REINFORCEMENT STANDARD



1. Slope bank no steeper than 1:1
Fill in any undercuts.
2. Place polypropylene Geotextile mat over
6 foot wide band. 3 feet below water level, extending up bank 3 feet.
3. Place rip-rap (one foot diameter & larger) over Geotextile, extending 2
foot vertical, above normal water level.
4. Fill in spaces between larger rock with 2 inch & under gravel. (no Geotextile
mat to be exposed to sun)

