

BIRCH BAY VILLAGE COMMUNITY CLUB
ARCHITECTURAL RULES AND REGULATIONS

As adopted by the Birch Bay Village Board of Directors on
Effective: July 19, 2018

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

ACC RULES AND REGULATIONS CHANGE LOG

Change #	Date	Section	Subject	Change/Add/Delete
#1:	6-16-11	Section 8	Culverts/Catch Basins	Add
#2:	4-3-12	Section 1	Definitions-Impervious...	Delete
#3:	5-17-12	Section 1	Definitions-Impervious	Change
#4:	1-16-14	Section 1	Definitions-Driveways	Add
#5:	1-15-15	Section 3	Retaining Walls	Change
#6:	1-15-15	Section 3	Lot Line Setbacks	Change
#7:	4-16-15	Section 3.4	Lot Line Setbacks	Add
#8:	6-18-15	Front page	Disclosure & Acknowledgment	Add
#9:	12-17-15	Section 6.1a	Storage Sheds	Change
#10:	7-21-16	Section 3	Compliance/Timelines	Change
#11:	6-2-17	Revision of Section 3	Auxiliary Buildings	Add
#12:	6-2-17	Renumbering/Deletion	Section 6- 11/Delete Section 12	Change
#13:	1-2-18	Definitions	Add Performance Deposits	Add
#14:	3-6-18	Definitions	Delete Attached Structure/change auxiliary structure/change remodeling	Delete/Change
#15:	3-6-18	Section 2.6	Verbiage	Add/Change
#16:	3-6-18	Section 2.7.1	Verbiage	Add
#17:	3-6-18	Section 3.3	Renovations	Change
#18:	3-6-18	Section 3.3.2.1	Auxiliary Structures	Add verbiage
#19:	3-6-18	Section 3.5.1b	Allowable Height	Change
#20:	3-6-18	Section 3.5.2	Height Depiction	Change
#21:	3-6-18	Section 3.16	Golf Ball Screening	Change
#22:	3-6-18	Section 3.19	Mail/Newspaper boxes	Add
#23:	3-6-18	Section 5.2 C&D	Manufactured Homes	Change
#24:	3-6-18	Section 7.1	General	Change
#25:	3-6-18	Section 11	Public Hearings	Change
#26:	7-19-18	Definitions	Final Average Lot Grade	New
#27:	7-19-18	Paragraphs 3.3.2.1c,3.41,3.13,4b	Verbiage	Change
#28:	7-19-18	Section 3	New Paragraph 1.3.2	New
#29:	7-19-18	Paragraph 3.16.2	Verbiage	Change
#30:	7-19-18	Paragraph 9.3.1	Landscape Improvements	Change

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DEFINITIONS

1. **Auxiliary Structure** – A single story garage, workshop, carport or storage building that is not physically attached 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. **Driveway** - A private road that connects directly between a single-family dwelling/garage/carport and a BBVCC paved street.
7. **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.
8. **Exterior Renovations** - Remodeling, reconstruction, alterations or additions, which increase the size or alter the exterior elevation or appearance of structures on the lot.
9. **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.
10. **Final Average Lot Grade** – The surface height of a lot after final grading following construction or placement of a single family dwelling disregarding raised areas such as mounds, berms, retaining walls, landscape rock, etc.
11. **Finished Grade** - The average elevation of the finished ground level at the center of all walls of a structure.
12. **Flagpole** - A pole greater than six (6) feet in height used to raise a flag.
13. **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.
14. **Golf Ball Screen** - A protective screen to prevent golf balls from entering a property and causing damage or injury
15. **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, etc.
16. **Living Space** – The finished interior area of a single-family dwelling meant for human habitation. It does not include garages, carports, storage sheds, etc.
17. **Lot Line** - A boundary of a lot as determined by a licensed surveyor, commonly called a property line.
18. **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.
19. **Natural Ground Level** – The undisturbed surface height of a lot prior to improvement.
20. **Parking Space** - A minimum area of ten (10) feet by twenty (20) feet used for temporary storage of motor vehicles, boats, etc.
21. **Performance Deposit** – Property owner’s funds that are held by BBVCC to ensure projects are completed as approved by the ACC.
22. **Private Property**- Property within the BBVCC that is owned by individual member(s).
23. **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.
24. **Rear Lot Line** - The property line, which is not a front or side lot line.
25. **Remodeling** – The act of changing or altering the exterior structure, style, or form of a single-family dwelling that adds 30% or more to its exterior square footage.
26. **Retaining wall** - A wall designed to resist the lateral displacement of soil or other material.
27. **Setbacks** - Required minimum distances from property lines to structures exceeding a specified height.

28. **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.
29. **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.
30. **Stick Built Home**- A home that is constructed piece by piece on the building site where it will remain.
31. **Storm Water** – Water that originates from weather related precipitation events such as rain or snow/ice melt.
32. **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.
33. **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.
34. **Undue Hardship** - Undue hardship exists when the AR&R deny the property owner all reasonable use of his property.
35. **Variance** - A modification of the terms of the AR&R when it is demonstrated that an undue hardship exists.

Disclosure and Acknowledgment:

Birch Bay Village Community Club ("BBVCC") is a planned community subject to the Declaration of Rights, Reservations, Restrictions and Covenants of Birch Bay Village dated June 20, 1966, recorded at Auditor's File No. 1009345 (the "Covenants"). Section 8(c) of the Covenants provides that an architectural control and maintenance committee is to be formed and authorizes rules and regulations to be adopted to control and restrict development of properties within BBVCC.

These Architectural Rules and Regulations as amended were adopted with the intention of creating and maintaining an aesthetically desirable community.

The purpose of the Architectural Rules and Regulations are aesthetic in nature to control and restrict development to preserve property values and not intended to satisfy any governmental law, regulation, ordinance or code, including but not limited to any building code, fire code, zoning regulation, shoreline regulation, or any other city, county, state or federal rules, regulations, ordinances and codes.

There are certain approval processes required in the Covenants and these Architectural Rules and Regulations. These approval processes and any final decisions or approvals obtained from BBVCC or the ACC do not in any way mean that the structure or project is compliant with any other laws, rules, regulations, or ordinances. Each project applicant is responsible for contacting any and all municipalities or agencies with jurisdiction over the property to ascertain what permits, processes, and approvals are necessary or required for the project. This is separate and apart from any requirements of the Covenants or Architectural Rules and Regulations.

These Architectural Rules and Regulations may not be consistent with mandatory laws or regulations for development or use of property as detailed above, and approval pursuant to the Architectural Rules and Regulations does not supersede, contravene, or replace any other legal requirement. In the event of a conflict between these Architectural Rules and Regulations and any other laws, rules, regulations, ordinances, and codes, the project applicant must comply with whatever is the most restrictive. This document is intended to be in full compliance with all governing documents and policies of BBVCC. Provided, these Architectural Rules and Regulations are subordinate and subject to the Homeowners Association Act, the applicable corporation law, the Covenants, the Articles of Incorporation, the Bylaws and the policies. In the event of any conflict between these Architectural Rules and Regulations and the foregoing, the provisions of the foregoing shall control in that order of priority.

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

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.

1.3.2 STRUCTURE HEIGHT ALLOWANCES

The ACC and/or Board of Directors can allow minor aesthetic height changes to the AR&R’s when they determine at their sole discretion that such improvements are enhancements to a structures design without adverse impact. Some example enhancements that could exceed AR&R height restrictions are roof weather vanes, dwelling fireplace chimneys, roof cupolas, and fence support post caps.

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 performance deposits. 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:

1. The agents name, address and phone number.
2. The project to which the agent designation applies.
3. The division and lot number for the project.
4. 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 performance deposits.

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 performance deposits) 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:

1. The project request must not deviate in any manner from the AR&R's.
2. 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.
3. 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 DEPOSITS

To ensure compliance with the AR&R, performance deposits are required as listed in The BBVCC Fee Schedule. Performance deposits 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 deposit 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 deposit per section 3.7.1.

Performance deposits for ACC approved projects are retained by the BBVCC until the associated project is complete. Performance deposits for ACC disapproved projects are returned to the project applicant within 10 days of the disapproval letter, unless the applicant wishes to re-apply or appeal to the Board of Directors. Upon project completion of ACC projects, it is the applicant's responsibility to request the return of their performance deposit from the BBVCC management office. The BBVCC Manager will verify that either all project work has been completed in accordance with the approved project or that the project was disapproved, and the performance deposit was returned to the applicant. Performance deposits not requested for return within two (2) years from the ACC project approval date are forfeited to the BBVCC.

The performance deposits 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 dependent on the type and scope of the project. Generally, major projects require professional design/engineering services and county permits such as new homes, auxiliary structure, 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. A Whatcom County approved soil erosion prevention ground cover is required for new homes, auxiliary structures, and remodeling. This ground cover must be maintained until the home owner completes their landscaping plan.
- g. For new homes, auxiliary structures, 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. Exterior single-family dwelling renovations are expected to:

1. Normally provide additional living space such as bedrooms, enlarged kitchens, dens, baths, etc.
2. Be incorporated into the existing exterior architectural design or be part of a new exterior design applicable to the entire dwelling. Example: One common shared roof design that ties the whole dwelling together.

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 AUXILIARY STRUCTURES

These structures may not be used for habitation, commercial or industrial use. Garages, workshops, and storage buildings shall be architecturally compatible with existing home. No structure shall detract from the aesthetic desirability of the community. Carports are allowed only in Divisions 7 and 12M.

3.3.2.1 AUXILIARY GARAGE AND WORKSHOP STRUCTURES

These structures are appropriate for a limited number of lots. Accordingly, only one such structure is allowed per lot. These are major projects and must comply with section 2.7 requirements.

To obtain approval, owners must fulfill all requirements of the AR&Rs and submit to a public hearing. Upon receipt of a completed project application the BBVCC management office will initiate section 11, Notice of Public Hearing process.

The following applies:

- a. The interior square footage cannot exceed 576 square feet.
- b. Roofs shall be the same style, color and material as the existing home.
- c. Maximum height measured from the final average lot grade is 18 feet.
- d. Use construction materials and exterior color schemes the same as the existing home.
- e. Placed on the lot where it has little or no impact on neighbors and is a minimum of 10 feet from the existing house.
- f. Be designed and sealed by a Washington State registered architect or Washington State registered engineer in accordance with all architectural rules and regulations and conform to all local and state building codes.

3.3.2.2 CARPORTS IN DIVISION 7 AND 12M

One is allowed per lot. 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.

3.3.2.3 STORAGE STRUCTURES

These structures are commonly referred to as storage sheds. One that meets AR&Rs' requirements is allowed per lot. Sheds can be purchased already built, as kits or can be individually constructed if they conform to the following.

- a. Roofs shall be the same style, color and material as the existing home.
- 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.
- d. Be placed in the yard where it has little or no impact on neighbors.

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 shall be setback a minimum of twenty five (25) feet from front and side lot lines that parallel BBVCC streets except as follows: (1) In Division 7 the home minimum setback from the front lot line is twelve (12) feet; (2) In Division 3 lot 2; Division 6 lot 13; Division 9 lot 118 and 125; Division 10 lots 1, 2, 3 and 12; Division 13 lot 5; Division 15 lot 41; and Division 15A lots 1, 2, 40 and 46 the minimum setback from the front lot lines is twenty (20) feet. The maximum height within the above setback areas for any structure is four (4) feet from the final average lot grade.
- 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 final average lot grade.
- 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), twenty (20) and twelve (12) foot setback areas of item 3.4 item 1 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) as determined by Whatcom County.
- b. If requested by the owner a new single-family dwelling or exterior renovation of an existing single family dwelling whose lot abuts the BBVCC perimeter fence may be approved to exceed the 18-foot maximum height requirement as follows:
 - (1) North side of Salish Road, from Division 7, lot 24, thru Division 11B, lot 2;
 - (2) west side of Quinault Road, Skagit Way, Skagit Place and Salish Road from Division 12 lot 9 through Division 7, Lot 25.

To obtain approval, owners must fulfill all requirements of the AR&Rs and submit to a public hearing. No structure per section 3.5.1 (a) or (b) may be built more than twenty-five (25) feet above average ground level, or twenty-six (26) feet above BFE. Upon receipt of a completed project application the BBVCC management office will initiate section 11, Notice of Public Hearing process.

- 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 water's 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&Rs.

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 a visible paint. Adjacent to the spike in visible paint the surveyor will show the allowable height of the structure above that spike and as applicable the actual national geodetic vertical datum (NGVD) elevation, or the North American Vertical Datum (NAVD) 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.
- b. If certification is not received prior to foundation/floor slab installation, the project will receive a stop work order.
- c. 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 COMPLIANCE

The following documents are used by the BBVCC Manager to maintain AR&R compliance:

- a. **Stop Work Order:** A formal written document used to halt:
 - 1) All work in progress that required ACC approval but was not approved by the ACC.
 - 2) All work in progress that violates the approved ACC project.
- b. **Cure Notice:** A formal written document used to inform the owner/member of:
 - 1) Completed work that required ACC approval but was not approved by the ACC.
 - 2) Completed work that violates the ACC approved project.

Projects must be completed in accordance with the AR&R and as approved by the ACC. Projects that fail to comply with what the ACC approved, and/or the AR&R will result in the BBVCC Manager immediately issuing a Stop Work Order or a Cure Notice and assessing a fine per the BBVCC General Rules and Regulations. In addition, the Manager may also take one or more of the following actions on behalf of the BBVCC Board of Directors:

- a. Retaining all or a portion of the project performance deposit.
- b. Requiring the removal of all structures/materials related to unauthorized work and return of property to its original condition.
- c. Notifying the BBVCC Board of Directors of the property owner's non-compliance and action taken.
- d. Recommending to the Board of Directors additional fine assessments 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.

3.7.2 TIMELINES

Timelines for ACC projects that are approved following the issuance of a STOP WORK ORDER or CURE NOTICE shall be as follows:

- a. Stop Work Order: All projects must be completed within six (6) months from the date of the BBVCC Manager's written notification to the owner of ACC project approval. For structures, the exterior, including paint or other suitable finish, must be completed within this timeframe.
- b. Cure Notice: All projects must be brought into compliance within sixty (60) days from the date of the BBVCC Manager's written notification to the owner of ACC project approval. Requests for extensions must be submitted to the ACC in writing by the owner prior to expiration of the 60-day correction 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.

3.8 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

Retaining walls are vertical structures made from one of the following:

- Poured concrete with a horizontal slab footer and vertical stem wall.
- Concrete modules.
- Properly treated wood.
- Rock.

Plans for all retaining walls greater than two (2) feet require ACC approval. Additionally, plans for retaining walls greater than three (3) feet shall be approved by a Washington State licensed structural engineer. Retaining wall height is determined by a ninety-degree vertical measurement from the lowest point of the wall structure which is either a concrete module, properly treated wood, rock or poured concrete horizontal footer. The following must be shown on plans submitted for ACC approval:

- Wall materials.
- When used, concrete module dimensions.
- Wall height.
- Wall thickness
- When used, horizontal footer width and thickness.
- Soil depth on each side of the vertical portion of the wall.
- Drainage system.

Retaining walls shall not exceed five (5) feet in height nor be closer than five (5) feet apart. Additionally, concrete wall modules are to be no greater than 8" X 16" and cinder blocks more than 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 must 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:

1. When attached to the ground does not exceed eighteen (18) feet in height as measured from the pole/base structure final average lot grade entry point to its top including any cap ornament.
2. When attached to a surface other than the ground (example: deck/patio) cannot exceed the roof height of the residence.
3. Is round or oval shaped with an outside diameter not greater than six (6) inches and is adequately anchored to its surface.
4. 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:

1. The dock plans must include the method of dock access from the lake bank (ramp, stairs, etc.). 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.
2. 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, flotation shall be sufficient enough to keep the treated lumber from making contact with the water.
3. Flotation 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.
4. 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.
5. The owner(s) of the dock will sign a hold harmless agreement to release BBVCC from legal action because of any incident involving the dock. The owner(s) will also present proof of current liability insurance and agree to maintain such insurance coverage.
6. No docks are allowed on vacant lots.

3.16 GOLF BALL SCREENING

Golf ball screening that exceeds AR&Rs height restrictions may be approved for lots which abut the golf course. To obtain approval owners must fulfill all requirements of the AR&Rs and submit to a public hearing. Upon receipt of a completed project application the BBVCC management office will initiate section 12, Notice of Public Hearing process.

The following is required:

1. The plans for the screening structure must be approved by a Washington state licensed professional structural engineer.
2. The screen height cannot exceed sixteen (16) feet as measured from the final average lot grade to the top of the structure's highest point.
3. Supporting posts must be metal and powder coated flat black.
4. The screening net material must be black in color and designed to repel golf balls.
5. The screen posts must be attached to the ground and set back from property lines a minimum of five (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 decide 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:

1. 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.
2. 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.

3.19 MAIL/NEWSPAPER BOXES

Each lot with a single-family home may have a street side mail/newspaper delivery box provided: All US Postal Service (USPS) requirements are met including:

1. Mailbox placed 6 to 8 inches back from the paved road edge. This dimensional placement is determined by a vertical 90-degree line from the edge of the paved road and then measured from this vertical line 6 to 8 inches back (away from the road) to the front bottom of the mail box. The mail delivery trucks wheels must never leave the paved surface to place mail in a mailbox.
2. Home address number place on the mailbox.
3. The bottom of the mail box is 41 to 45 inches above the surface of the ground when measured from a 90-degree vertical line.

New home owners are encouraged to coordinate with their neighbors and if required the USPS to determine their mailbox placement. Neighbors are encouraged where practical to consolidate up to four mailboxes in one location.

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 final average lot grade 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-foot 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.

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.

For pre-owned dwellings being brought into BBVCC a completed housing inspection report must accompany the ACC project request. The inspector employed by the property owner must be licensed by the State of Washington.

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:

- 1. Travel trailers, recreational vehicles, and park models shall not be construed to be a mobile and or manufactured home.
- 2. A manufactured/mobile home, before being occupied, must be connected to the local commercial electrical power provider and county water and sewer service.
- 3. The manufactured/mobile home foundation must be approved by Whatcom County and be either a pit set system or an ACC alternative.
- 4. 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 OFF STREET PARKING AND DRIVEWAYS

Garages are encouraged and strongly advised for vehicle parking.

6.1 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.

6.2 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.

6.3 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 or use their dock and or boat.

7 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. Management may give approval to the RDC when connecting existing culverts or replacing a current culvert, a project application must be turned into the Office and signed off by Management before work may commence.

7.1 GENERAL

A culvert with a catch basin(s) is required for all new homes, remodeling, auxiliary structures 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.

7.2 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.

7.3 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.

7.4 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.

7.5 INSPECTION

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

7.6 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 Roads and Drainage Committee.

8 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 cannot 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.

9 LOT REQUIREMENTS

9.1 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. cannot 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 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.

9.2 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.

9.3 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.

9.3.1 LANDSCAPE IMPROVEMENTS

Except for cutting of grass, clearing of weeds/blackberry vines, and removal of trees allowed in paragraph 9.4, vacant lots may have landscaping improvements only when all 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.

9.4 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, Willows, Alders, 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.

9.4.1 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 to limb as necessary to correct the visibility issue.

9.4.2 VIEW INFRINGEMENT

Trees or shrubs that infringe upon neighbor's 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 neighbor's views.

10 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&Rs. These circumstances may include unique topography such as steep slopes, water bodies, or other natural features that are atypical within the Village.

The ACC may recommend reasonable variance of these AR&R 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&Rs.
- D. That the property cannot be reasonably used under the AR&Rs 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.

Upon receipt of a variance request, the BBVCC management office will initiate section 11, Notice of Public Hearing process.

11. PUBLIC HEARINGS

The ACC conducts the Public Hearing at which time all interested BBVCC members may present their views on the application to the ACC. Following the hearing the ACC deliberates and makes the following determinations:

- A. For variances: Either disapproves the application or recommends approval to the BBVCC Board of Directors (BOD). Any subsequent BBVCC BOD decision on either an ACC disapproval appeal or an ACC recommendation for approval is sent in writing by the BBVCC manger to the applicant.
- B. For all non-variance hearings, the ACC approves or disapproves the request.

11.1 PROCESS

Upon receipt of an application described in section 11.1.1 below, the BBVCC management office will issue a Notice of Public Hearing. The notice is disseminated in advance of the next regularly scheduled ACC meeting as follows:

1. Mailed thirty days (30) in advance for section 3.3.2.1 (Auxiliary Garage and Workshop Structures) and 3.5.1 (b) (Allowable Height) projects to all lot owners whose property lies within 300 feet of a proposed project.
2. Mailed thirty days (30) days in advance for section 3.16 (Golf Ball Screening) to all lot owners whose property lies immediately adjacent to and those whose views will be impacted by a proposed project.
3. Mailed forty-five (45) in advance for section 10 (Variances) requests to all lot owners whose property lies within 300 feet of a proposed variance.
4. All notifications of public hearings are to be posted twenty-five (25) days in advance of the hearing on the reader board outside the BBVCC office.

11.1.1 APPLICATION

- a. For section 3.3.2.1 (Auxiliary Garage and Workshop Structures); 3.5.1 (b) (Allowable Height), and 3.16 (Golf Ball Screening) applicants submit a project per section 2.
- b. For section 10 (Variances) applicants submit either a complete final project per section 2 or to save expenses the applicant may submit one (1) copy of the following:
 - 1) Appropriate ACC Construction Project Checklist
 - 2) Variance Request
 - 3) 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'.
 - 4) 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.
 - 5) Documentation or letter of explanation in support of applicant's request.

If variance approval is granted, based on the above section 11.1.1.b 'save expenses approach', 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.

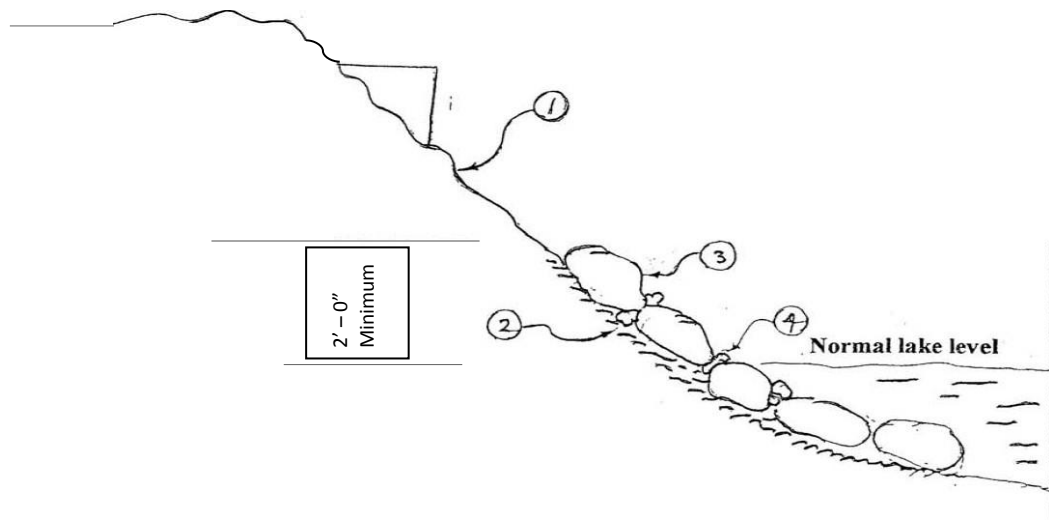
Birch Bay Village Community Club's Architectural Control Committee recognizes that Whatcom County, Washington State and Federal land use policies do change from time to time. When there are conflicting regulations between the Birch Bay Village AR&Rs and Whatcom County, the more restrictive rules shall 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 and 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 six (6) foot wide band. Three (3) feet below water level, extending up bank three (3) feet.
3. Place rip-rap (one (1) foot diameter & larger) over Geotextile, extending two (2) foot vertical, above normal water level.
4. Fill in spaces between larger rock with two (2) inch & under gravel. (no Geotextile mat to be exposed to sun)