

BIRCH BAY VILLAGE COMMUNITY CLUB

ARCHITECTURAL RULES AND REGULATIONS

As adopted by the Birch Bay Village Board of Directors on

FEBRUARY 18, 1999

REVISED AND RESTATED FEBRUARY 18, 2010

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	01-18-2001	3.7.2	Survey	Change
#2	01-18-2001	3.3.1	No Temporary Structures	Change
#3	05-17-2001	3.14.1	Mobile Homes	Change
#4	12-20-2001	3.7.2	Survey	Change
#5	12-20-2001	2.4.1(c)	Ground Cover	Add
#6	12-20-2001	3.9.2	Ground Cover	Delete & Add
#7	12-20-2001	12.14	Tree/Shrub Maintenance	Add
#8	12-20-2001	3.3.1	No Temporary Structures	Delete & Add
#9	12-19-2002	D.13 & D.22	Garden/Retaining Walls	Add
#10	06-19-2003	Section 4	Adjacent to BBV Property	Rewrite
#11	06-19-2003	Section 14.5	Regulation Conflicts	Add
#12	07-17-2003	3.7.1 (b)	Salish Road Variances	Add & Renumber
#13	08-05-2003	D.26	Structure Defined	Add
#14	10-16-2003	2.8.2 (4)	Small Projects	Add & Renumber
#15	10-16-2003	3.9.3	Non-Compliance w/AR&Rs	Add
#16	10-16-2003	3.7.1 (a)	Structure Height	Add & Renumber
#17	01-15-2004	Section 9	Culverts/Catch Basins	Rewrite
#18	04-15-2004	14.3	Variance requests	Add
#19	05-20-2004	2.8	Small Projects	Change
#20	08-03-2004	3.14.1	Mobile/Manufactured Homes	Change
#21	08-03-2004	5.1	Modular Home	Change
#22	08-03-2004	5.2	Building Code	Change
#23	08-03-2004	2.4.2	Performance Bond	Change
#24	08-03-2004	3.7.1	15 Point Survey	Change
#25	09-17-2004	5.1	Housing Types	Change
#26	12-16-2004	2.4.1(a)	15 Point Survey Plans	Change
#27	02-17-2005	3.7.2(a)	Height Certification	Add
#28	02-17-2005	3.10.1/3-10-3	Exterior Finishes	Change
#29	02-17-2005	5.4	Housing Types	Add
#30	07-21-2005	6.2	Storage Buildings	Change
#31	07-21-2005	Fees	Fee Schedule	Change
#32	07-21-2005	D.27	Definitions	Add
#33	09-15-2005	2.2	Process of Approval	Add wording
#34	09-15-2005	14	Variances	Change
#35	09-15-2005	D.28	Definitions	Add
#36	03-03-2006	11.6	Signs	Add
#37	05-18-2006	12.11	Tree Removal	Change
#38	08-17-2006	12.15	Floating Docks	Add

Change #	Date	Section	Subject	Change/Add/Delete
#39	02-15-2007	3.9.3	Retaining Walls	Add/Renumber
#40	04-19-2007	6.1	Storage	Change
#41	08-16-2007	3.6	Residential	Change
#42	08-16-2007	3.3.2	Garages and Carports	Add
#43	08-16-2007	6.3.1	Vehicle Storage	Revised
#44	01-17-2008	3.9.3	Retaining Walls	Add
#45	01-17-2008	6.2	Storage Buildings	Add
#46	03-20-2008	11.1	Signs	Add
#47	04-17-2008	D.13	Garden Wall	Change
#48	04-17-2008	D.22	Retaining Wall	Change
#49	08-21-2008	Appendix A	Performance Bond Requirement	Change
#50	08-21-2008	Appendix A	Current Performance Bond	Change
#51	11-20-2008	12.10.1	Use of Vacant Lots	Change
#52	12-18-2008	12.8	Use of Vacant Lots	Change
#53	12-18-2008	D.12	Flagpoles	Add
#54	12-18-2008	3.15	Flagpoles	Add
#55	12-18-2008	Appendix A	Flagpoles	Add
#56	1-15-2009	1.2	Applicability/Commission	Change
#57	1-15-2009	3.8.1	Area Restrictions	Change
#58	1-15-2009	Appendix A	Replacement Project	Add
#59	4-15-2009	1.2	Applicability	Change
#60	7-16-2009	3.4	Building & Lot Coverage	Change
#61	7-16-2009	3.6	Setbacks & Easements	Change
#62	7-16-2009	4.2	Structures adjacent to BBVCC	Change
#63	7-16-2009	4.3	Structures adjacent to BBVCC	Change
#64	7-16-2009	4.4	Structures adjacent to BBVCC	Change
#65	8-20-2009	12.15	Floating Docks	Addition
#65	12-17-09	12.11	Trees & Shrubs	Change
#66	12-17-09	3.8.2	Building Coverage	Addition
#67	12-17-09	11	Signs	Change
#68	12-17-09	3.9.3	Retaining Walls	Addition
#69	12-17-09	13.2	Propane Tanks	Change
#70	12-17-09	Definitions		Change/Delete
#71	1-21-10	12.15	Floating Docks	Change
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D **DEFINITIONS**

D.1 Attached Structure - A garage, porch, or other structure having all or part of one or more walls common to a single family dwelling.

D.2 Back Fill - The placement of earth or selected other material, such as sand, gravel, crushed aggregate, or rock in an excavated void.

D.3 Boat Prop - A temporary or permanent support used to keep land-stored boats upright that is not a boat trailer.

D.4 Building Coverage - The percent of ground area occupied by a single family dwelling, its eaves, garage and its attached 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.

D.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.

D.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.

D.7 Exterior Renovations - Remodeling, reconstruction, alterations or additions, which increase the size or alter the exterior elevation or appearance of structures on the lot.

D.8 Finished Grade - The average elevation of the finished ground level at the center of all walls of a structure.

D.9 Flagpoles - A metal pole greater than 6 (six) feet in height used to raise a flag.

D.10 Garden wall - A wall that is used as a landscape feature that does not exceed 2 feet in height. These walls typically hold soil for small plantings and flowerbeds or are used to outline paths, parking areas, etc.

D.11 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.

D.12 Living Space - Finished interior area, excludes garages, carports, exterior storage, etc.

D.13 Lot Line - A boundary of a lot as determined by a licensed surveyor, commonly called a property line.

D.13.1 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.

D.13.2 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.

D.13.3 Rear Lot Line - The property line, which is not a front or side lot line.

D.14 Remodeling - Adding or replacing more than 30% of the structure.

D.15 Parking Space - A minimum area of ten (10) feet by twenty (20) feet exclusive of all area used for maneuvering, ramps, etc., which is used exclusively for temporary storage of motor vehicles.

D.16 Retaining wall - A wall designed to resist the lateral displacement of soil or other material and exceeds 2 feet in height.

D.17 Setbacks - Required minimum distances from property lines to structures exceeding a specified height.

D.18 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.

D.19 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. (Reference clause 3.7 Height Restrictions).

D.20 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.

D.21 Undue Hardship - Undue hardship exists when the AR&R's deny the property owner all reasonable use of his property.

D.22 Variance - A modification of the terms of these regulations as contained in paragraph 14, Variances.

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

1 ARCHITECTURAL CONTROL COMMITTEE (ACC)

1.1 PURPOSE

The intent is to keep the quality of workmanship, materials and harmony of exterior appearance (design) all in accord with existing structures and the location compatible with respect to the topography and finish grade elevation.

1.2 APPLICABILITY

The ACC reviews projects that create or replace an exterior structure or change the exterior of an existing structure. This review includes 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 exterior repair where the materials and structure size are not changed, do not require ACC project review. Routine repair 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 residential homes, docks, fences, storage buildings, flag poles, retaining walls, concrete work, paving, culvert/catch basins, gazebos, pergolas, trellises, etc. Replacement projects must comply with the current AR &R's except for:

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

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

1.3 COMMISSION

No proposed structure (including renovations or additions) or any other structure (including but not limited to dock, landscaping, fence, concrete work, paving, etc.) shall be commenced, constructed, placed, remodeled or expanded in BBV until the construction plans including specifications, and plat plan showing the location of the structure with respect to the property lines, and corners have been approved by the Architectural Control Committee.

It is recommended that a qualified professional prepare all plans specifications and details.

All common property additions and renovations shall also be submitted to the ACC for approval.

- 1.3.1** The ACC and/or Board of Directors shall have the right to restrict or prohibit the construction of a building or other structure even though such a building or structure is not otherwise restricted or prohibited herein, if it is determined that (a) in the exercise of the ACC'S and/or Board of Directors sole discretion, such building or structure would be detrimental to the development of Birch Bay Village, or (b) in the event the building plan and specifications are not in accordance with the provisions of these AR&R'S.

1.4 COMMITTEE STRUCTURE

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 OBJECTIVES: The objectives of the ACC shall be:

- 1.4.1 To create and maintain an aesthetically desirable community by encouraging sensitive architectural design of individual residences and other facilities.
- 1.4.2 To preserve the natural environment.

1.6 AREA OF RESPONSIBILITY

The ACC shall concern itself only with overall planning, specific sites and aesthetic quality of buildings. In no way shall the ACC confirm assumed geological conditions, structural methods proposed, nor the general adequacy or safety of any proposed structure(s).

2. PROCESS OF APPROVAL

- 2.1 Applicants must complete and sign an ACC Project Request Checklist (Appendix C) at the time of application in order to commence the approval process.
- 2.2 The ACC'S *reasons for* approval or disapproval shall be in writing. In the event the ACC fails to approve or disapprove within sixty (60) days any proposed structure for which all-applicable provisions of the AR&R'S have been met, the ACC'S approval will no longer be required.
 - 2.2.1 Construction of any structure shall not commence nor shall any fill be added to any lot, until approval is given by the ACC and written confirmation from the General Manager, is received by the owner, or an agent of the owner, unless ACC approval is not required by application of Section 2.2 hereof.
- 2.3 Plans, specifications and checklist for any proposed structure shall not be considered complete unless submitted to the ACC together with applicable fees, if any, by the owner, or an agent of the owner, no later than six (6) working days (not including Sat, Sun, or holidays) prior to the next regularly scheduled meeting of the ACC. The ACC will hold its' regular meeting on the 1st Tuesday of each month. The ACC may at its' discretion hold additional meetings depending on the workload. Such plans, checklist and fees must submitted to:

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

ALL PLANS MUST CONFORM TO AR&R'S.

2.4 PROPOSED PROJECT DOCUMENTS

- 2.4.1 Documents shall be submitted to the ACC and shall include (but not be limited) to the following:
 - 2.4.1(a) Two (2) complete sets of construction plans and specifications for all proposed structures or improvements. They shall include plat plans showing height and location on the lot, of any building, walk, fence, patio, deck, driveway, paved area, propane tank, or any other structure proposed to be constructed, altered, or placed; together with the proposed construction materials and color schemes for roofs and exteriors thereof; also a plat showing where all corners are located on the lot, and showing the method used to arrive at the maximum building height (see Section

3.7).

Two (2) copies of Lot Plat Survey map from a professional licensed surveyor are required. The Lot Plat Survey Map must show the location and heights of all 15 points taken and used to determine the average ground level as described in Sec. 3.7. In case of exceptions (see 3.7.1 c) when not all 15 points are taken, the surveyor must provide an explanation:

Any modification of approved plans must be submitted to the manager, for approval by the manager and/or the ACC if required. All such modifications must conform to AR& R'S.

- 2.4.1(b) Site plans shall be of appropriate scale (recommend 1/8"= 1' on plans) noting division and lot numbers and illustrating location and dimensions in feet of proposed buildings, locations of ingress and egress surfaces, future outdoor lighting, proposed screening of vehicles, storage, north arrow for orientation with direction of views, tree species and location, and location of all trees six (6) inches or more in diameter at ground level (trees which the owner proposes to remove should be so indicated on the site plan.)
- 2.4.1(c) An initial landscape ground cover shall be included with new home 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 (also see Sections 3.9.2 Landscaping)

2.4.2 **PERFORMANCE BONDS**

Upon submission of all plans to the Manager, the owner or an agent of the owner shall submit cash Performance Bond to the Community Club Office prior to plans being placed on the ACC agenda for consideration. (See "Appendix A" current fee schedule). Failure to comply with these AR&R'S may result in forfeiture of the Performance Bond and/or actions as detailed in clause 3.9.3.

All Performance Bonds shall be retained by the Community Club to ensure completion and compliance in accordance with all AR&R'S. Upon Management's Manager's ratification that work has been completed in accordance with the approved plans and all AR&R'S, the Performance Bond will be returned to the owner or authorized agent of the owner.

- 2.5 All floor plans shall be of an appropriate scale (recommend 1/4" = 1'). Typical building sections and elevations must be sufficient to show methods of construction, and must include appropriate details to show type of selected exterior building materials.
 - 2.5.1 Specifications sufficient to explain the quality and expected performance standards of proposed structure or structures are required.
- 2.6 For on-site inspection prior to ACC review, all lot corners must be staked, corners of the proposed structure must be staked, and outside corners of any proposed deck area must be staked. Trees designated on site for removal must be clearly marked with tape. Also see Section 3.2.
- 2.7 A copy of any required Whatcom County building permit (The County permit stamp on plans is acceptable.) must be provided to BBVCC prior to commencement of any construction process. This permit copy will be maintained with submitted plans on file at the BBVCC office.

2.8 **EMERGENCY APPROVAL OF SMALL PROJECTS**

2.8.1 The ACC may review and approve applications for minor-structure projects such as fences, storage units, patios or extensions thereof, etc. when estimated value does not exceed \$3000 and the project is deemed an emergency by the General Manager and the Chairman of the ACC. The review and approval/disapproval process is as follows:

1. The requested item for approval must not deviate in any manner from the AR&Rs.
2. All AR&Rs must be met including time of submission at the office.
3. Management must make a reasonable attempt by phone to contact all ACC members. Approval may be given by a minimum of three (3) committee members and the General Manager (advisory) who must meet together to determine approval/disapproval. All four (or more), as noted in foregoing, will sign the pertinent documents(s) as approved/disapproved.
4. Approval of those committee members present, if less than four (4), must be unanimous. Should any ACC member, the management, or BBV Board member object to the project for any reason the project must be presented at the next regular meeting of the ACC.
5. Any deviation from the AR&Rs whatsoever will not be considered under this policy and the application will be forwarded to the next regularly scheduled ACC meeting.
6. If possible the Chairperson or Acting-Chairperson should be one of the reviewing members.
7. Section 15 "Process of Appeal" applies to the foregoing.

2.9 ADMINISTRATION FEES

To defray expenses, fees are assessed and listed in Appendix A.

Fees shall be paid at the time of application for approval and not later than six (6) working days (see section 2.3) prior to the next regular ACC meeting in order for the proposal to be placed on the agenda for consideration by the ACC.

The fees in Appendix A, are established by the Board of Directors of Birch Bay Village Community Club, and are subject to change without notice.

3. PLANNING AND CONTROL RULES & REGULATIONS

3.1 ACCESS - No lot shall have or maintain access to any county or public road.

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 of the interior 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 will require a legal survey. Additions to existing dwellings, etc. may require a legal survey. The purpose of the survey is to verify all property corners. A licensed surveyor employed by the property owner must perform the survey.

A survey may be required for other changes to the private or community property (e.g. culverts, fences, retaining walls, etc.) and if requested must be supplied with 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 or other outbuilding 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 Newly constructed single story non-mobile homes must have a minimum of fourteen hundred (1,400) square feet of main living space. Newly constructed greater than one-story non-mobile homes must have a minimum of one thousand (1,000) square feet of living space on the first floor. The total square footage for newly constructed homes greater than one story must be a minimum of seventeen hundred (1,700) square feet of living space. See paragraph 3.14.4 for minimum square footage requirements for mobile homes. (effective July 1, 2002)

3.3.2 Garages and 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:

1. Have a hard surface floor such as concrete or compacted stone.
2. Utilize permanent ground attachment such as concrete reinforced footings and stem wall.
3. Roofs, walls, and doors made from fabric, plastic sheet panels, or similar materials are prohibited.
4. No Quonset Huts or buildings of a temporary nature are allowed in BBV.

3.4 All lots have a twenty-five (25) foot setback from the roadside property lines to the structure except in Division 7, where the setback from the cul-de-sac shall be twelve (12) feet from the lot property line on the cul-de-sac. The maximum height in these setback areas for any fence, wall, windscreen, awning, satellite dish, or structure of any type is four (4) feet from the natural ground level except as described in paragraph 3.6.

3.5 Maximum height on lots in areas (other than those of Section 3.4 above) for any fence, wall, windscreen, satellite dish, or structure of any type is six (6) feet from the natural ground level, except as prescribed under Section 4 specifically Article 4.3.

3.6 No building or part of a building (*except roof overhangs of 18 inches*), such as a small cantilevered room, bay window, chimney, stairway, or any other such construction may be erected nearer than five (5) feet from any interior lot Line. Part of a building, such as a small cantilevered room, bay window, chimney, stairway or roof overhangs may extend up to two feet into the setbacks of paragraphs 3.4, 4.2 and 4.3.

3.7 RESIDENTIAL HEIGHT RESTRICTION

- 3.7.1 No residential structure shall be erected, altered, placed, or the exterior remodeled, or permitted that exceeds eighteen (18) feet in height from the average elevation of the natural ground level. Material brought in or relocated within the 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 near 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).

A "Story Pole" shall be provided illustrating the elevation of the structure and allowable elevation determined by a survey.

- 3.7.1(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.
- 3.7.1(b) As of 7/17/2003, the remaining vacant lots along the fence line on the north side of Salish Road, from Division 4, Lot 72, to Division 11B, Lot 2 only, may be approved to exceed the 18 foot maximum height requirement, if lot owners so request. Owners must still fulfill all requirements of the ACC AR&Rs, including the requirement to seek a variance.

No home may be built in excess of 25 feet above average ground level, or flood plain level, which conforms to the heights of existing homes in that area. All plans, applications, etc., must be submitted to the ACC for approval, as normally required. The variance will need final approval by the BBVCC Board of Directors before building may begin.

- 3.7.1 (c) 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.
- 3.7.1 (d) When a lot has a exceptional topographic conditions, the owner(s) may apply for a variance from the restrictions, limitations and/or measurement procedures set forth in these documents.

- 3.7.2 Building documents must be submitted to the ACC after the survey is completed showing the height allowed from the Natural Ground Level and the ground level finished floor elevation. The survey is to be performed by a licensed surveyor and a spike driven in the blacktop road in front of the lot and circled with red paint, with the allowable height of the building above the spike and the actual NGVD elevation marked alongside in red paint.

3.7.2 (a) **Height Certification:**

Once excavation has been completed and the footing depth has been established, and prior to County inspection of the footings, the owner or owner's representative is to certify with Birch Bay Village Manager, in writing, that the building height will not exceed the maximum building height established by the building plans submitted and approved by the ACC.

If certification is not received prior to foundation installation, the project will receive a Stop Work Order.

Prior to setting roof trusses, the owner or owner's representative is to certify with the Birch Bay Village Manager that the trusses will not cause the building to exceed the maximum building height established by the building plans submitted and approved by the ACC.

If the setting of trusses is commenced prior to the Birch Bay Village Manager receiving the certification, a Stop Work Order will be issued.

3.8 AREA RESTRICTIONS

3.8.1 No structure that is new, a replacement, or a renovation shall be erected or located on a lot unless in accordance with AR&R's and the lot owner has obtained ACC approval and written notification of that approval from BBVCC Management.

3.8.2 BUILDING COVERAGE

The building footprint of dwelling and garage/carport shall be no more than thirty five (35) percent of the site. The area of property and the area of the footprint, in square feet, shall be indicated on the plat plan.

3.8.3 LOT COVERAGE

The overall impervious coverage must not exceed fifty (50) percent of the lot. The area of property and the area of all impervious cover shall be indicated on the plat plan.

3.9 COMPLETION OF CONSTRUCTION AND LANDSCAPING

3.9.1 BUILDING CONSTRUCTION

The construction of any dwelling or structure(s) on any property in Birch Bay Village, the plans of which are approved by the ACC, must begin within twelve (12) months after approval. Otherwise, such approval shall lapse and plans must be resubmitted for approval. The exterior, including paint or other suitable exterior finish, must be completed within six (6) months of commencement of construction.

3.9.1(a) The owner must request final inspection by BBVCC staff of the construction. Construction must pass inspection no later than six (6) months from the starting date. The purpose of the inspection is to ensure that the construction complies with all AR&R'S.

The ACC may grant extensions. Requests for extensions must be submitted to the ACC in writing by the owner or an agent of the owner prior to expiration of the six-(6) month construction period.

3.9.2 LANDSCAPING

The initial landscape ground cover must be completed no later than sixty (60) days following the issuance of occupancy certificate or eight (8) months after the building start, whichever is sooner. Application of the initial ground cover is to provide for a neat lot appearance and protect from soil erosion (also see Sections 2.4.1(c), 12.6, 12.7, & 12.9). Additional landscaping such as plantings and enhancements are at the lot owner's discretion. Additions of fences, walls, or other structures must first be approved by the ACC.

3.9.3 RETAINING WALLS

Plans for retaining walls greater than three (3) feet in height shall be approved by a Washington State licensed structural engineer. Retaining wall height is determined by a measurement from the bottom of the stem wall/first block (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.

3.9.3(a) Concrete block retaining wall modules are to be no greater than 8" X 16".

3.9.3(b) No cinder block retaining walls in excess of one (1) foot are allowed.

3.9.4 NON-COMPLIANCE WITH AR&R'S

Failure to comply with AR&R'S will result in one or more of the following actions:

- (a) Should Management find any lot owner out of compliance with the AR&R'S a STOP WORK ORDER shall be issued in writing and immediately posted upon the structure by Management. Such posting of notice shall constitute an OFFICIAL NOTICE of the BBV Board of Directors. Such notice shall include division and lot number, date and statement of non-compliance.
- (b) Forfeiture of all bonds submitted for the construction project.
- (c) Removal of all structures/materials related to unauthorized work and return of property to its original condition.
- (d) Notification to BBVCC Board of Directors declaring that the property owner is in non-compliance with the AR&R'S.
- (e) Assessment of fines equal to double the construction bond assessed for the project.
- (f) Other legal action may be taken, as deemed necessary, by the BBVCC Board of Directors.

3.10 EXTERIOR FINISHES

3.10.1 SIDING/RESIDING -

Materials must be compatible with existing structures in the area.

3.10.2 ROOFING/REROOFING -

Materials must be compatible with existing structures in the area.

3.10.3 PAINTS/STAINS OR REPAINTING -

Materials and exterior colors must be compatible with existing structures in the area. New Home Construction facades facing the street are to have a minimum of two paint colors (one body color and one trim color).

3.11 HOUSE NUMBERS

All residences must display home address numbers of three-and-one-half (3 1/2) inches or larger in a conspicuous place on the residence. All mailboxes must display legible home numbers.

3.12 ALARM SYSTEMS

All alarm systems must be of automatic reset type. Owners are required to register with the Birch Bay Village Security contract personnel that they have an alarm system and who to call if the alarm system requires attention. Security personnel are instructed to call 911 or other such suitable emergency services should they for any reason become aware that such

system might have been triggered. They shall not answer any such calls themselves and assume no responsibility for response or lack of response to any such triggered alarm system.

3.13 SATELLITE DISHES

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

3.14 MOBILE HOMES AND MANUFACTURED HOMES

- 3.14.1** Travel trailers, recreational vehicles, and park models shall not be construed as a mobile home. In any designated mobile home division, any mobile home, before being occupied, must be provided with water and sewer connection, electrical power hookup, and be placed on a Whatcom County approved foundation and approved tie down system.
- 3.14.1(a)** Visitors to owners of a lot containing an approved dwelling may stay in their motor home or trailer, parked on the property, for a period not to exceed ten days.
- 3.14.2** Skirting must be installed around the base of mobile homes within ninety-days(90) after the mobile home is moved onto the property. Landscaping must be substantially completed within one (1) year after placement of the mobile home.
- 3.14.3** Mobile homes shall be less than ten (10) years old at the time of initial placement. The ACC must also deem them acceptable in appearance.
- 3.14.4** Mobile homes that are placed on lots in Division 7 must have an area of at least seven hundred (700) square feet. Those placed on lots in Division 12M must have an area of at least one thousand (1,000) square feet.

3.15 FLAGPOLES

A maximum of two flagpoles are allowed on a lot that contains a single-family residence. The height restriction provisions in paragraphs 3.4 and 4.3 do not apply to flag poles. Flagpoles cannot be erected within five (5) feet of property lines. A flag pole can only be a single pole that:

- 1) When attached to the ground does not exceed 18 feet in height as measured from the poles natural ground level entry point to its top including any cap ornament.
- 2) When attached to a surface other than the ground (example: residential deck/patio) cannot exceed the roof height of the residence.
- 3) Is round or oval shaped with an outside diameter not greater than 6 inches and is adequately anchored to its surface.
- 4) Is constructed of metal.

3.16 GOLF BALL SCREENING

Inherent to the game of golf is the possibility that errant shots by golfers will leave the course and result in the intrusion of balls onto lots adjacent to the golf course. Such a condition is presumed to be known by all owners living within such proximity together with the possibility that balls may cause damage or injury to property or persons. The proximity of certain lots to certain features of the golf course may subject a lot to an unusually high occurrence of errant balls entering the lot, thereby potentially increasing the possibility of damage or injury. The intent of this provision is to allow a mechanism for lot owners who believe they are subject to such unusual danger to erect protective screening while balancing that request with paragraph 1.1.

Owners of lots abutting the course who want to construct golf ball screening within the height requirements of paragraph 3.4, 3.5, 4.2, and 4.3 must submit a normal AR & R project request to the ACC. Golf ball screening that exceeds the heights of the above referenced paragraphs is not allowed unless approved by the BBVCC Board of Directors. To obtain Board approval, the following procedure shall be followed:

- 1) Lot owner submits in writing a detailed statement of facts supporting his or her belief as to the existence of unusual conditions on his or her lot to the BBVCC management Office.
- 2) BBVCC Management Office evaluates the lot owner's statement for reasonableness and sufficiency. This step may require further input from the lot owner until the Management Office is satisfied.
- 3) BBVCC Management Office forwards the lot owner's statement to the ACC Committee along with a proper ACC Project Application.
- 4) The ACC reviews the project application (s) and makes a decision.
- 5) The Management Office notifies the lot owner of the ACC's decision.

3.16.1 GOLF BALL SCREENING CONSTRUCTION

- a) Screen height is determined by a measurement from the ground to the top of the screening material or its support posts, which ever is higher.
- b) Screening material for screens greater than six (6) feet in height shall, at a minimum, be constructed of a high strength netting designed to repel golf balls and be black in color.
- c) The poles shall be metal poles powder coated black. The screens shall be removable in design and shall not exceed sixteen (16) feet in height.
- d) The total area of screening shall be no greater than is necessary to reasonably abate the condition documented by the lot owner.
- e) The engineering of the design specifications for the construction of the screens and poles shall be provided by the BBVCC Management Office.

3.17 VARIANCES AND APPEAL PROCESS - REFER TO SECTIONS 14, 15 AND D-24.

4 STRUCTURES AND PLANTINGS ADJACENT TO CERTAIN BIRCH BAY VILLAGE COMMUNITY CLUB PROPERTY

Section 4 applies to any structures or plantings on lots in which the rear property line abuts to Birch Bay Village marina, Kwann and Thunderbird Lakes, the Golf course or the "Beaver Pond" and its upper feeder creek up to Salish Road. Lots contiguous to above defined landforms must conform to general approval process provisions of all ACC Rules and Regulations and also comply with the following:

- 4.1 Proposed structures, such as bulkheads, must also receive approvals as required by all relevant regulatory authorities and government agencies.
- 4.2 Lots must have a minimum setback of thirty-five (35) feet from the rear property line to any structure that exceeds three (3) feet above natural ground level except as described in paragraph 3.6.
- 4.3 The maximum height of any fence, windscreen, satellite dish or structure of any type, located on any portion of the rear lot, which lies within the thirty-five (35) foot setback, may be no taller than three (3) feet above natural ground level except as described in paragraph 3.6. Within the 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 a level of four (4) feet or less above natural ground level.
- 4.4 In addition to ACC Rules and Regulations, Government agencies may require more

stringent setback requirements near environmentally sensitive areas such as Birch Bay, the 'Beaver Pond', and BBVCC lakes.

- 4.5 Lots exempted from the thirty-five (35) foot setback regulation: Div. 11C, Lots 14 through 20 and Div. 14, Lots 14 & 15.

5 HOUSING TYPES

- 5.1 Mobile and manufactured home construction will only be acceptable in Divisions 7 and 12M. Modular, 'stick built' or factory built homes conforming to the International Residential Building Code may be built or erected in all divisions of BBVCC when approved by the ACC.
- 5.2 All construction shall meet all requirements of the Whatcom County International Residential Building Code.
- 5.2.1 A Letter of Certification or other suitable documentation from a Washington State Licensed Inspector shall be required for modular home building components not constructed on the home site.
- 5.3 Boat houses or dock sheds shall not be allowed.
- 5.4 "Box-like" houses are prohibited. Front elevations facing the street 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. (excludes mobile homes).

6 STORAGE

- 6.1 It is required that each residence maintain a screened storage area suitable to screen such exterior oriented items as garbage cans, garden tools, freezers, bicycles, etc. so as not to be visible from the roadways.

6.2 STORAGE BUILDINGS

- 6.2.1 Storage buildings shall have peaked roofs compatible with the existing house, but not less than 3/12 pitch.
- 6.2.2 Storage buildings shall not exceed 144 square feet in size.
- 6.2.3 Storage building construction materials and exterior color scheme shall be the same as the existing house or constructed of wood and painted/stained in an unobtrusive color.

6.3 VEHICLE STORAGE

- 6.3.1 Recreational vehicles, motor homes, trailers, boats, boat trailers, etc. may be parked or stored only within an appropriate designated and properly maintained *gravel or paved* area on the owner's lot that has his home on it. Storage or parking on vacant lots, Birch Bay Village Community Club roads, rights-of-way, or any part thereof will not be permitted; except as noted in 6.3.1(a).
- 6.3.1(a) Boats and boat trailers (with proper decals and owners having paid a current launch or moorage fee) may be stored in boat storage yard at the marina.
- 6.3.1(b) Boats may not be stored on either temporary or permanent props (i.e. 55 gallon drums, etc.) anywhere in the Village. Only boat trailers may be used for dry land storage support.
- 6.3.2 Commercial vehicles such as, but not limited to, trucks, truck tractors, semi-trailers, implement trailers and any type of equipment used for construction, or commercial boats, shall not be parked or stored on Birch Bay Village Community Club property or rights of way, unless authorized by the Management.

6.4. ACCESS TO PRIVATE DOCKS ATTACHED TO VACANT LOTS

6.4.1 Private dock owners may park vehicles, when required to access the dock and/or boat.

7 LIGHTING

7.1 The purposes of exterior lighting are to make safe movement possible and enhance the aesthetic quality of the structure and its surroundings. The ACC recognizes that subjective judgment involving the interests of the individual property owners and neighbors must be considered in determining what kind of lighting will most effectively fulfill the purpose of safety and aesthetics.

7.2 Exterior accent or safety lighting for residences shall be directed downward to shine on owner's lot but not the adjacent lot or buildings.

7.3 If any form of exterior lighting is found to be objectionable by neighboring residences, they have the right to appeal to the ACC for review. In the event differences cannot be resolved with the parties involved, the ACC'S decision shall be binding.

8 OFF STREET PARKING

8.1 SPACES

Two (2) parking spaces will be required (exclusive of RV storage as stated in Section 6.3.1(a)). Each parking space shall be a minimum of ten (10) by twenty (20) feet in size.

8.2 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.

8.3 A garage or carport is strongly advised.

9 CULVERT AND CATCH BASIN REGULATIONS

9.1 Culverts shall be installed, but must be approved by the ACC prior to beginning of construction. If approved the culvert shall be installed along the entire property line adjacent to any roadway of the village for any new home construction mobile home installation and/or modification of an existing culvert, unless instructed otherwise by the ACC.

9.2 MATERIALS

All culverts shall be made of double walled corrugated polyethylene pipe, solid or perforated to be determined by the ACC. Pipes made from similar material may be used if approved by the ACC.

9.3 DIMENSIONS

The minimum diameter of any culvert used in the Village shall be twelve (12) inches. In some areas a minimum size of eighteen (18) inches or larger may be required as directed by the Management.

9.4 INSTALLATION

- 9.4.1 For all culvert and catch basin installation a comprehensive installation plan shall be developed between the builder/owner and the ACC or their designees (Drainage committee, ACC Coordinator). The plan has to include depth, location, low and high spots, grade, backfill material and type and location of catch basin(s). The plan must be approved by the ACC prior to construction.
- 9.4.2 Improper or poorly installed culverts and any damage to road shoulder or pavement caused thereby, shall be replaced or repaired at property owner's expense.

9.6 INSPECTION

Inspection of each culvert/catch basin installation by the Management is required before it is back filled.

9.7 MAINTENANCE

Routine maintenance of culverts to ensure proper drainage flow shall be the responsibility of Birch Bay Village Community Club provided however, that if replacement of the culvert is required, it shall be the responsibility of the abutting owner to replace it upon notification from the BBVCC.

10 DRAINAGE

- 10.1 It is the responsibility of each homeowner to control storm water originating upon the improvements located on their property.
- 10.2 Storm water originating upon improvements on a lot may not flow directly onto adjacent or nearby properties.
- 10.3 Exact method of storm water disposal for any proposed improvement to be constructed upon any lot must be indicated on the building plans and is subject to approval by the ACC.
- 10.4 The ACC must approve in writing the exact method of water drainage into lakes, marina, community-owned property, or ditches. In the lakes and marina, the outfall end shall be six (6) inches below the low water line and the ditch shall be protected from any erosion-by-erosion control fabric and rock. Black plastic pipe, not perforated, corrugated or flexible and with a minimum diameter of four (4) inches must be used on Village property and whenever the pipe is exposed.

11 SIGNS

- 11.1 Only signs that comply with the following are allowed, except for political signs; see General Rules & Regulations 8.3:
 - 11.1.1 Signs must be placed so they do not interfere with the mowing of vacant lots, easements, etc. by the Club
 - 11.1.2 Signs must be professional in appearance with stenciled appearing letters and graphics. Hand drawn signs are allowed only when they meet professional aesthetics. The BBVCC management office has final determination of professional appearance.
 - 11.1.3 Private contractor signs can be no larger than five (5) square feet. These signs may be placed on or adjacent to a structure while the contractor is performing physical work. One sign is allowed per contractor with a maximum of two signs per lot.
 - 11.1.4 For Sale and/or Rental Signs are to be twelve (12) inches by eighteen (18) inches, white with red lettering, and limited to one sign per lot.

- 11.1.5** Signs are to be promptly removed upon the completion of private contractor work, sale or rental of property, or expiration of listing.
- 11.1.6** TheBBVCC management office without notice, shall remove any sign not conforming to these AR & R's.

12 LOT MAINTENANCE

- 12.1** No improvement, 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.
- 12.2** Every contractor will supply a portable toilet on every job site for new home construction or major renovation.
- 12.3** 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, vegetation on the lot must be maintained at a presentable level from commencement of construction. The roadway must be kept free of debris, gravel, etc. caused by construction equipment or methods during construction.
- 12.4** Contractors will be 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.
- 12.5** All cuts in the earth, exposed embankments, and bare ground must be graded and smoothed.
- 12.6** Bare earth must be graveled, barked or seeded with grass and appropriately maintained.
- 12.7** 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 B – 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 or 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.

12.8 USE OF VACANT LOTS

All vacant lots must remain free of any improvement (including but not limited to any structure, paving, landscaping, fencing, ornamentation, equipment, apparatus, signage, etc), except as specifically provided in section 9 (Culvert and Catch Basin Regulations) and 12.8.1 below.

12.8.1 Landscape Improvements

Vacant lots may have landscaping improvements only 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 3.7 above and the buildable height established with a pin set 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, garden walls, and trees only. No structure, equipment, apparatus or other non-landscape component is authorized.

- d) All landscaping projects must meet all AR&R's, including compliance with drainage rules whenever there is a change in grade or where landscaping will have a potential impact on drainage.
- e) Upon commencement of any work on the lot, it shall become the responsibility of the lot owner to maintain and mow the lot. If the owner does not mow the lot, it shall be mowed or maintained by BBVCC and the lot owner will be billed per the BBVCC fee schedule.

12.8.2 Lot Mowing

The Community Club will mow vacant lots that do not contain obstruction(s). An annual fee for mowing will be billed per the BBVCC fee schedule. Obstructed lots shall be maintained by the property owner. If the lot owner does not do this, the Birch Bay Village Community Club will clean up the lot and the clean up charges will be assessed against the lot.

Under present Birch Bay Village policy, vacant lots without obstruction will be mowed by the Community Club. All others shall be maintained by the property owner. If the owner does not do this, the Birch Bay Village Community Club will clean it up and the clean-up charges will be assessed against the owner's lot.

- 12.9** 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 retaining 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) degree slope require the planting of approved types of low growing plants

- 12.10** Unsightly storage of materials, of any type, shall not be allowed.

12.11 TREES AND SHRUBS

The removal of any tree greater than 19 inches in circumference (6 inches in diameter) and measured 12 inches from the ground shall require a written request to the ACC with the exception of Alders, Willows, and Cottonwoods. Unauthorized tree removal shall carry a fine as stated in Appendix C.

Trees or shrubs that block visibility to streets and driveways are a safety hazard. Trees or shrubs that infringe upon neighbors' views should be reduced or removed. This is a matter of good reason, judgment, and conscience, and is reciprocal between neighbors.

12.12 ANIMALS AND LIVESTOCK

No animals, poultry or livestock of any kind shall be raised, bred or kept on any lot except that dogs, cats and other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

12.13 FIRES, GARBAGE, REFUSE

No outdoor fires for burning wood, trash or debris shall be started without first obtaining a valid fire permit during seasons when such is required. Be aware that outdoor fires may be considered a smoke nuisance and/or health hazard to neighbors. Burning of any trash except paper, wood or brush is strictly prohibited, as is burning anything whatsoever during those times designated "burn bans" are in effect. No lot shall be used or maintained as a

dumping ground for rubbish, refuse or garbage. Garbage or other waste shall be kept in sanitary containers. Composting shall be an acceptable mode of on-site disposal of non-toxic, organic waste (plant material and food refuse only). Incineration of any type of household refuse is prohibited. Disposal of household waste or any other type of refuse shall be the responsibility of the lot owner. All burning must conform to applicable governmental regulations.

12.14 MAINTENANCE AND APPEARANCE

Trees and shrubs shall be maintained in a healthy growing condition. Each residential lot owner shall maintain lot and building exteriors in a neat, clean and orderly condition.

12.15 FLOATING DOCKS ON KWANN AND THUNDERBIRD LAKES

To make all floating docks uniform, the following outlines shall be followed:

Homeowners must submit detailed dock plans to the ACC for approval and as to how they plan to provide access to the dock from the bank (use a ramp, stairs, etc.).

All docks shall be floating with an access ramp, due to the fluctuation of the lake water levels. 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.

The maximum size is to be no more than 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.

Floatation shall be made of closed cell foam covered with an impervious material or equivalent. No metal drums shall be used.

The dock shall be held in place with a method to insure it will remain in place in the highest winds.

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.

No docks will be allowed on vacant lots.

13 PROPANE TANKS

13.1 Location of propane tanks must conform to governmental regulations and may not be less than ten (10) feet from any structure and lot line. Smaller tanks may be installed next to a structure in accordance with Whatcom County Code.

13.2 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. . Installation must meet all requirements of the "Uniform Fire Code - Article 82."

- 13.3 Pipes from the propane tank to the home must be buried to Whatcom County depth requirements.
- 13.4 Propane tanks in Divisions 7 and 12M only may be tanks of twenty-five (25) gallon capacity or larger and conform to Whatcom County regulations. All other divisions must have a minimum capacity of one hundred (100) gallons.

14 VARIANCES

- 14.1 **Variences are the exception rather than the rule.** *Variences are most appropriate to address unique or special characteristics of the property that prevent 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.*
- 14.2 The ACC may recommend reasonable variance of these AR&R'S in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained in the AR&R'S; provided approval is granted in writing by the Board of Directors *with their reasons stated for approval or denial* for any such variance; also provided that such variance conforms with the intent and purposes of the AR&R'S; and also provided that such variance will not be *materially* detrimental and/or injurious to other properties or improvements in Birch Bay Village or to the community of Birch Bay Village.

The applicants shall be required to demonstrate that the variance request satisfies 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); and*
- 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; and*
- 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 with the intent and purposes of the AR&Rs; and*
- D. *That the property cannot be reasonable used under the AR&Rs as written. **Note: ALL the criteria A thru D have to apply before a variance may be granted.***

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

- 14.3 In order to save any unwarranted expense by the applicant, two (2) copies of the following information must be submitted for consideration with the variance application *thirty days (30) prior to the next ACC meeting:*
- a) preliminary design documents that clearly show the full intent of the proposed variance.
 - b) proposed locations on a plat plan (scale 1/8"=1') of all improvements to be sited with dimensions clearly indicated.
 - c) elevations that show sections of all proposed improvements with dimensions clearly indicated.
 - d) profiles that clearly show the elevation of any improvement, with respect to the allowable lot elevation, as determined by a survey.

When the completed variance application has been submitted, the Management will issue a

Notice Of Public Hearing. A written notice must be mailed to all lot owners whose property lies within 300 ft. of the proposed variance. Following a Public Hearing, a recommendation is made by the ACC to the BBVCC Board of Directors. The decision of the BBVCC Board of Directors shall be sent in writing by the Management to the applicant. If approval is granted, the applicant should proceed with Section 2.

14.4 A variance may be recommended by the ACC; however, final approval may only be granted in writing by the Board of Directors.

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

15 PROCESS OF APPEAL

Should the ACC reject a proposed plan, the owner or the owner's representative may appeal to the ACC at their next regular meeting, only if new information is to be presented. The owner has the right to appeal the ACC's decision to the Board of Directors, after the first refusal or after an appeal to the ACC, if again refused.

APPENDIX A
BIRCH BAY VILLAGE
ARCHITECTURAL RULES AND REGULATIONS

Schedule of Administrative Fees, 2009

New Home Construction	\$3000.00
Exterior Renovations	\$ 100.00
Decks	\$ 100.00
Sheds	\$ 100.00
Floating Lake Docks	\$ 100.00
Culverts/Concrete Work	\$ 100.00
Fences	\$ 100.00
Floating Docks (Kwann & Thunderbird Lakes only)	\$ 100.00
Mobile Home Siting	\$ 500.00
Variance Request	\$ 300.00
Remodeling-Adding Footage (0 - 30%)	\$ 300.00
(30% - 50%)	\$1750.00
(51% or more)	\$3000.00
Tree Removal	No Charge
Replacement Project	No Charge
Flagpoles	No Charge

Performance Bond Requirements for 2008

As provided in Section 2.4.2 of the AR&R’S, a refundable performance bond must be submitted with project plans prior to review by the ACC. (changed 8/21/08)

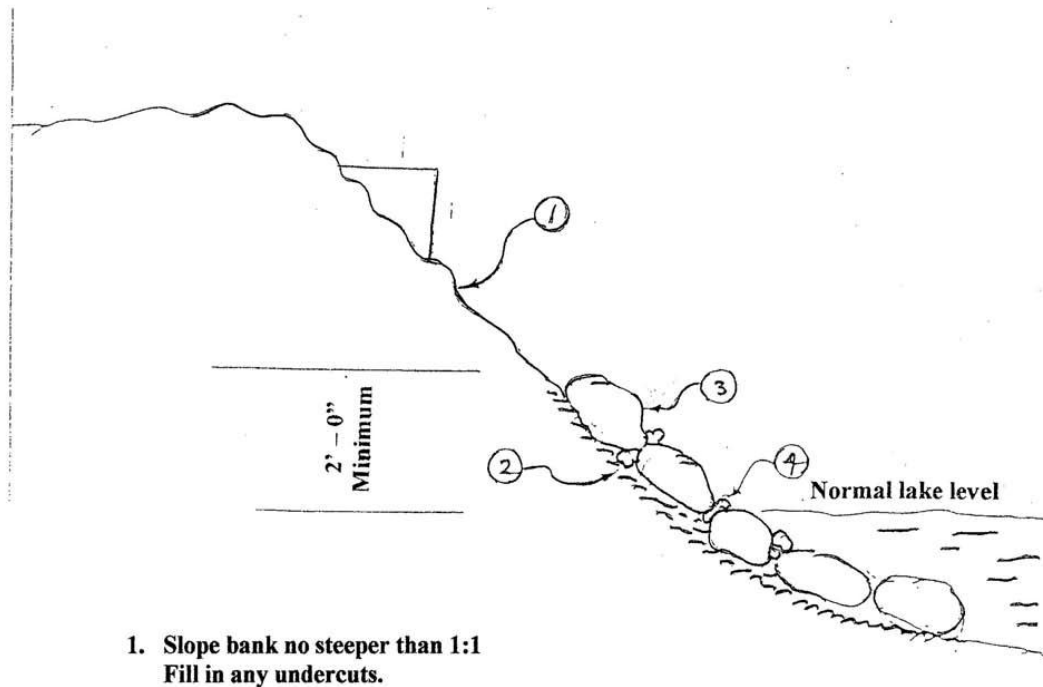
Current Performance Bond requirements are as follows:

New Home Construction	\$5,000.00
New Mobile Home Siting	\$5,000.00
All Other <u>Projects</u> (remodeling, fences, sheds, tree removal, etc.)	\$ 300.00

Performance Bond monies will be returned to the applicant upon Management’s verification that work has been **completed in accordance with all AR&R’S**. Please note Section 2.4.2 of these AR&R’S.

Note: Fees and Bond must be submitted with completed application materials before a proposal will be put on the agenda for the next ACC meeting. Completed application materials must be submitted no later than six (6) full working days prior to the next regularly scheduled ACC meeting (first Tuesday of every month).

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)

APPENDIX C
ACC Fines

Unauthorized Tree Removal Fines/Small Projects Fines

a. If a small project's construction commences prior to approval, the fine is double the permit fee and/or the bond, if paid, may be forfeited. In some instances a change in the subject structure may be required.

b. Unauthorized tree removal:

Tree Trunk Diameter*	Fine
6-12 inches	\$2,000
12-18 inches	\$3,000
18-24 inches	\$4,000
Greater than 24 inches	\$5,000
* Trunk diameter measured one foot above ground level	

Note: The BBVCC office will approximate tree trunk diameters for fine assessment purposes when required (such as all tree stump evidence destroyed or removed).

Repeated infractions carry incremental doubling of fines and/or loss of 'member in Good Standing.'

FINES FOR DUMPING INTO BBV LAKES

Fines for dumping debris or yard waste into the BBV lakes will be the same fines as for Vehicle infractions. (see the General Rules and Regulations schedule of fines)