

**TOWN OF BEAUX ARTS VILLAGE
ORDINANCE NO. 288**

AN ORDINANCE OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON SPECIFYING PROCEDURES FOR THE DIVISION OF LAND INTO FOUR OR LESS LOTS OR INTO TRACTS OR PARCELS AND REVISIONS OF PROPERTY LINES; REQUIRING BOUNDARY, SITE-FEATURE, AND KEY SITE-ELEVATION SURVEYS AT THE TIME OF APPLICATION FOR SHORT PLATS, LOT-LINE ADJUSTMENTS, LOT COMBINATIONS, VARIANCES, AND BUILDING AND OTHER PERMITS FOR WHICH VERIFICATION OF SITE CONDITIONS MAY BE NECESSARY, AND REPEALING ORDINANCES NO. 205, 241, 245, AND 246.

WHEREAS, RCW 58.17.060 requires towns to adopt regulations and procedures for the summary approval of short subdivisions; and

WHEREAS, the Town of Beaux Arts Village has adopted a zoning ordinance, Ordinance No. 266 or as amended, setting requirements for minimum building lots; **NOW THEREFORE**,

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

Section 1. Title, Purpose, Interpretation.

- A. **Title.** This ordinance shall be known as the Short Subdivision Ordinance of the Town of Beaux Arts Village.
- B. **Purpose.** The purpose of this ordinance is to implement the policy of the prescribed Washington State law referring to the platting and dedication of land, including but not limited to RCW Chapter 58 and RCW Chapter 36.70 by providing an expeditious procedure for the short subdivision of land and the revision of property lines; to encourage the most appropriate development of land throughout the Town; to minimize traffic hazards and accidents; to secure safety from fire; to assure adequate water; to prevent overcrowding of land and undue concentration of population; to promote the coordinated development of vacant areas; to conserve and restore natural beauty and other natural resources and public uses; and to enable conveying land by accurate legal description which may be simplified by reference to an approved short subdivision within the Town of Beaux Arts Village, Washington.
- C. **Interpretation.** In the interpretation and application of this ordinance its provisions shall be construed to be the minimum requirements.

Section 2. Definitions.

Boundary Line Revision (Adjustment). The reapportionment of two contiguous lots or parcels owned by the same or different individuals, persons, corporations, partnerships or other legal entity by adjusting the whole or part of the common property so that the lots or parcels may or may not be increased or decreased in surface area.

Building Lot. For the purpose of this Ordinance, building lot is a fractional part of land having fixed boundaries and being of sufficient area to meet the zoning requirements of the Town of Beaux Arts Village.

Council. The Council of the Town of Beaux Arts Village, Washington.

Declaration of Lot Combination. A process whereby two or more contiguous lots may be combined into one lot provided that the created lot shall not be less than 10,000 square feet.

Dedication. The deliberate appropriation of land by an owner for any general and public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

Lot. A fractional part of subdivided lands having fixed boundaries. The term shall include all land held as a unit regardless of whether described on plats or in documents of title as one or several tracts, blocks, lots, parcels or portions thereof. Land is held as a unit if contiguous and beneficially owned or controlled by one person or by a group of affiliated persons (such as a marital community, or joint venture, or partnership or corporation and one or more of its subsidiaries, officers, directors or stockholders, etc.), or a legally recognized entity, acting together with respect to the land; provided that the existence of a public or private roadway, utility and/or similar easement shall not be deemed to divide or make land non-contiguous if the land on both sides of such easement is so owned or controlled.

Lot, Legal Non-Conforming. A legal non-conforming lot is a parcel of property that has a configuration and/or area that does not conform to the current zoning ordinance, but which was created and/or recorded before the existing zoning ordinance was adopted.

Short Plat. A map or representation of a short subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

Short Subdivision. The division of land into four or less lots, tracts, parcels, sites or subdivisions, including Boundary Line Revisions and Lot Combinations, for the purpose of sale, lease, and/or building.

Town. The Town of Beaux Arts Village, Washington.

Section 3. Prohibitions.

A. No person shall sell or offer to sell, transfer, lease, convey, or otherwise dispose of a part of a lot, tract or parcel without first having received the Council's approval of the Short Subdivision, Boundary Line Revision or Lot Combination. The approved Short Plat or

Boundary Line Revision or Lot Combination must then be filed with the King County Department of Records and Elections, as set forth in the provisions of this ordinance.

- B. No short plat application shall be considered for any lot which contains less than 20,000 square feet without an application for variance.

Section 4. Size and Configuration of Building Lots.

- A. No dwelling house shall be erected in the Town upon a lot having a total horizontal area within the exterior lines of said parcel of less than 10,000 square feet.
- B. New building lots established by short subdivision shall be created by dividing an existing lot by a single straight line drawn at a right angle to an existing property line. Variances from this rule may be permitted by the Town Council, which shall consider, but not be limited to, the following factors: compliance with the Comprehensive Plan, as amended, pre-existing property lines, Town streets, natural topographical features, natural obstructions, and impact upon adjoining or surrounding lots and buildings.
- C. Newly created building lots shall have a total horizontal area within the exterior lines of said parcel of at least 10,000 square feet.
- D. No person owning or having any interest in real property lying within the confines of the Town, whether the same be a legal or equitable interest therein, shall sell, transfer, convey, contract to sell, lease, or in any other manner whatsoever dispose of any part of a single parcel of real property under any one of the following conditions:
- i. If the remaining portion of said lot or parcel shall have less than 10,000 square feet of horizontal area lying within the exterior lines of said remaining portion; or
 - ii. If the part of said lot or parcel being sold, transferred, conveyed, leased or otherwise disposed of shall have a dwelling house located thereon and shall have less than 10,000 square feet of horizontal area lying within the exterior lines of said part; or
 - iii. If the required setback, gross-floor-area-ratio (GFAR), and lot-coverage restrictions or any other requirements as set forth in Town ordinances shall be violated as a result of such sale, transfer, conveyance, contract, lease, or other method of disposition of a part of a single parcel of real property.

Section 6. Procedure

- A. **Preapplication Review.** Any person seeking approval of a short subdivision, boundary line revision or lot combination shall be encouraged to request a preapplication review with the Council. The purpose of such a session shall be to permit the potential applicant to receive unofficial review of his general short subdivision, boundary line revision or lot combination proposal before the applicant has made any substantial financial commitments. Such preapplication review shall not be construed to bind either the applicant or the Town in any respect.

- B. Required Application.** Any person desiring to divide land situated within the Town into four or less lots, or revise boundary or lot lines shall submit ten (10) copies of an application for approval of a short subdivision, boundary line or lot combination revision to the Town Clerk, on forms prescribed by the Town Council, together with the application fee.
- C. Application Fees and Expenses.**
- i. Application shall be accompanied by fee payments, as stated in the current fee resolution, deposited with the Town Clerk per application to cover the costs of administration, review and inspection.
 - ii. All additional costs necessary for compliance with this ordinance shall be borne by the applicant.
 - iii. No fee, or part of same, required by this ordinance shall be refunded for any reason.
- D. Content of Application.** The application shall contain the following information:
- i. The legal description(s) of the property to be subdivided, or whose boundary line is to be revised;
 - ii. The declaration by the owners required in pursuant to RCW 58.17.165;
 - iii. Notarized witness to the declaration in above Subsection C. (ii);
 - iv. A Short Subdivision map or a Boundary Line Revision or Lot Combination map which shall conform to the following requirements:
 - a. Be a neat and accurate drawing at a decimal scale on reproducible material prepared by a practicing land surveyor licensed by the State of Washington. The Short Subdivision, Boundary Line Revision or Lot Combination maps shall measure either 8 1/2" X 11" or 8 1/2" X 14" and shall show the entire tract(s), being divided, or subject to a boundary line revision, with accurate bearings and measurements for the boundaries of the entire tract(s), the lines of division for the proposed lots, and the area of each proposed lot;
 - b. Show existing utilities and how the proposed lots will be served by streets and utilities;
 - c. Show by means of a legal survey the accurate location of all existing structures and their relationship to the existing boundaries of the entire tract(s) and proposed lines of division or revision;
 - d. Contain the legal description of each of the proposed lots;
 - e. Contain the date prepared, north arrow, and scale legend;
 - f. The name and address of the registered land surveyor;
 - g. The stamp and signature of the registered land surveyor;
 - h. Show all easements, dedications, trails, access ways or joint use land.
- E. Site Survey.** All applications for short plats, lot-line adjustments, lot combinations, variances, and building and other permits for which verification of site conditions has been deemed necessary by the Building Official shall include a site survey prepared by a professional land surveyor licensed in the State of Washington and duly recorded as required by law (RCW 58.09.050). The site survey shall include as a minimum:

- i. A written legal description of the subject property, designation of legal owner, the recording number of the survey, the name of the surveying firm and the stamp and seal of the responsible surveyor.
- ii. A site drawing at a scale of one inch equals twenty feet or larger showing the metes and bounds of the site, gross square footage within the boundaries, structures and site features regulated by the Town and the setback lines.
- iii. Key topographic elevation points sufficient to define the project as related to the regulations of the Town. Establish and reference a permanent bench mark for the purpose of verifying completed-project conditions.

F. Property Corner Stakes. An eighteen-inch-long (18”) steel bar five-eighths inches in diameter shall be set at each corner or change of bearing in accordance with the legal description and as may otherwise be necessary to visibly define the site without instrument assistance. The steel bar shall be capped with a surveyor's cap identifying the surveyor's registration number.

G. Limitations. The surveyor using the data set by the survey done for the Town may use that data for the sole purpose of establishing project compliance with Town regulations. Reliance on Town survey data for other than this express purpose shall be solely at the risk and responsibility of the property owner.

H. Application - Additional Data Required. In addition to the information required by Section 6.D, the applicant shall also provide with the submitted application:

- i. A preliminary title report confirming that the title of the land described and shown on the proposed Short Subdivision map or Boundary Line Revision or Lot Combination map is in the name of the owners signing the application. The preliminary title report shall be dated within thirty (30) calendar days of submission of the application;
- ii. Any protective covenants required or any covenants upon the property;
- iii. The survey traverse and closing calculations;
- iv. Any other information as determined necessary by the Council.

Section 7. Review and Disposal.

- A. The application shall be transmitted by the Town Clerk to the Town Building Official no later than five (5) days after being received.
- B. The Town Building Official shall review the application for completeness and shall have the Short Subdivision map, Boundary Line Revision map or Lot Combination map and legal description calculated and checked for accuracy by a licensed Washington State Land Surveyor.

If the application is not complete, Town Building Official shall return it to the applicant for missing or additional information within twenty (20) days after being received from the Town Clerk.

If, after checking calculations and the legal description, the surveyor hired by the Town finds an error, the application shall be returned to the applicant within twenty (20) days after being received from the Town Clerk.

If the Town Building Official considers that the application is complete, he shall return it to the Town Clerk. The Clerk shall place the application on the agenda for the next regularly scheduled meeting of the Town Council and proceed with the publication and posting procedures in accordance with Paragraph C below..

- C. All short subdivision, boundary line revision and lot combination applications shall be reviewed at least once by the Council in open public session, with written notice of the date, time and location of the Council meeting publicly posted and mailed at least fifteen (15) days before the meeting by the Town Clerk to all adjacent owners of property in Beaux Arts Village nearest the subject tract.

The Town Council shall review the proposed short subdivision, boundary line revision or lot combination application and base its approval, denial or approval with conditions on the following considerations for each lot created by the short subdivision, boundary line revision or lot combination:

- i. Conformance with other applicable ordinances, standards and specifications adopted by the State of Washington and The Town, including but not limited to Town Ordinance No. 265, or as amended, and Ordinance No. 266, or as amended, and Ordinance No. 242, or as amended.
- ii. Provision for adequate storm drainage, water and sanitary sewerage service, means of fire protection, means of vehicular access and off-street parking;
- iii. Provision for appropriate deed dedication and/or easement;
- iv. Provision for other improvements not specifically delineated herein but found necessary by the Town Council due to site conditions on the subject property.

Compliance with subsections i, ii, iii, and iv shall be the responsibility of the applicant, at his/her sole expense. Required improvements in and of the public right-of-way and/or easements shall be installed by the applicant in conformance with the Town's engineering standards before the issuance of a building permit, and approved as-built plans shall be required before the Town shall accept the improvement.

Short subdivision, boundary line revision or lot combination applications shall be approved, disapproved, or approved with conditions within thirty (30) days from the date of acceptance by the Town Council thereof, unless the applicant consents to an extension of time. Following Council approval and certification of the short subdivision, it shall be the responsibility of the applicant to file the Short Subdivision, Boundary Line Revision or Lot Combination, together with the certificate required by RCW 58.17.165, with the King County Department of Records and Elections. A copy of the recorded instrument shall be returned to and maintained by the Town Clerk in the records of the Town. No building permits shall be issued until the recorded instrument has been received by the Town. The applicant shall pay all costs associated with filing the approved Short Plat, Boundary Line Revision or Lot Combination.

Section 8. Dedication. The intention to dedicate a portion of land to public use shall be evidenced by the owner by the presentation for filing of a Short Subdivision, Boundary Line Revision or Lot Combination showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat for filing by the Council. If the proposed Short Subdivision, Boundary Line Revision or Lot Combination contains a proposed dedication, the requirements of RCW 58.17.165 shall be applicable.

Section 9. Expiration Period. If the Short Subdivision, Boundary Line Revision or Lot Combination is not filed with the King County Department of Records and Elections within six (6) months of the date of Town Council approval, the short subdivision, Boundary Line Revision or Lot Combination shall be deemed null and void. Upon written request of the applicant, the Town Council may grant one six-month extension.

Section 10. Declaration of Lot Combination. A lot combination may be accomplished by:

- a) Filing an application with the Town to combine two or more lots into one.
- b) Complete a legal survey of the proposed lot. Under certain circumstances and upon approval of the Town Council, the applicant may be allowed to offer documentation that the corners of the newly created lot have been established by a licensed surveyor.
- c) Execute a Declaration of Lot Combination in a form approved by the Town Council and capable of being recorded with the King County Recorder's Office.
- d) Complete a Declaration that the proposed lot will not be subdivided for a period of 5 years from the date of approval of the Lot Combination by the Town Council.
- e) A public hearing will be held before the Town Council.
- f) After approval by the Town Council
 - (i.) Record the survey.
 - (ii.) Record the Declaration of Lot Combination.
- g) Pay an application fee to the Town as stated in the current fee resolution.

Section 11. Enforcement and Penalties. Anyone willfully violating or failing to comply with any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in the sum of not exceeding one thousand dollars (\$1000) or by imprisonment in the county jail not exceeding ninety (90) days, or by both such fine and imprisonment; and each day that anyone shall continue to violate or fail to comply with any of the provisions of this ordinance shall be considered a separate offense.

Section 12. Repealer. The following ordinances are repealed;

Ordinance No. 205 approved May 12, 1987.

Ordinance No. 241 approved November 9, 1994.

Ordinance No. 245 approved January 10, 1995.

Ordinance No. 246 approved March 7, 1995

Section 13. Limitation. The restrictions, limitations and requirements provided for in this ordinance are in addition to, and not in limitation of, any restrictions, limitations or requirements derived from any contract, deed or covenant pre-existing this ordinance.

Section 14. Severability. If any provision of this ordinance, or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to the other persons or circumstances is not affected.

Section 15. Effective Date. This ordinance shall take effect immediately upon its passage by the Town Council and publication.

Section 16. Repeal or Amendment of this Ordinance. Before the repeal or amendment of this ordinance the conditions of Ordinance 258, or as amended, and review by the Town's Planning Commission as established by Ordinance 161, or as amended, under RCW 35.63, or as amended, must be met.

Section 17. Variances. Variances to Section 3. B of this ordinance may be permitted upon application to the Town Council.

- A. No variance shall be approved or approved with modifications unless the Town Council finds that all of the following eight criteria have been met:
- i. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town and zone in which the property on behalf of which the application was filed is located;
 - ii. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;
 - iii. The variance is requested because of special circumstances related to the size, shape, topography, location or surroundings of the subject property and will provide the owner with use rights and privileges permitted to other similarly situated properties in the Town;
 - iv. The need for a variance has not arisen from actions previously taken by the owner and/or applicant;
 - v. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by the owners of other property in the Town, but which is denied to the property owner in question because of special circumstances on the property in question;

- vi. The variance is the minimum variance necessary to permit the owner reasonable use of a property as is permitted to other similarly situated properties in the Town;
 - vii. The variance is consistent with all other provisions of this ordinance and is in accord with the Comprehensive Plan;
 - viii. The variance is necessary because the strict application of Section 3.B of this ordinance, as amended, precludes or significantly interferes with all reasonable economic use of the property by the property owner.
- B. A variance may be approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the criteria of Section 17.A (i-viii) of this ordinance or other Town ordinances, then the application shall be denied.
- C. **Fees.** The variance application shall be accompanied by a nonrefundable fee established by Resolution of the Town Council. No action shall be taken upon the application until the fee has been paid.
- D. **Notice of Public Hearing.** Before a request for a variance is acted upon by the Town Council, the Council shall consider the application at a public hearing. Procedures for a public hearing are set forth in Ordinance No. 258, or as amended.
- E. **Findings and Conclusions.** In deciding the matter of the variance requested, the Town Council shall cause to be prepared written findings and conclusions based upon the testimony and written exhibits submitted at the public hearing. The date that such findings are approved by the Mayor or other designated chair shall be the date of action on the variance request.
- F. **Appeals.** The action of the Town Council on the application for a variance shall be final and conclusive, unless, within ten (10) days from the date of the action, the original applicant or an adverse party appeals to the King County Superior Court.

Section 18. Effective Date. This ordinance shall take effect five (5) days after its passage and publication.

PASSED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE on the 11th day of May, 1999.

APPROVED BY THE MAYOR OF THE TOWN OF BEAUX ARTS VILLAGE on the 11th day of May, 1999.

Charles R. Lowry, Mayor

ATTEST:

CLERK/TREASURER

APPROVED AS TO FORM:

TOWN ATTORNEY

I certify that copies of the above ordinance were posted as required by law in the Town of Beaux Arts Village, Washington, on the _____th day of _____, 199__.

Gail D'Alessio
Clerk/Treasurer