

**TOWN OF BEAUX ARTS VILLAGE
ORDINANCE NO. 478**

AN ORDINANCE OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON,
AMENDING CHAPTER 18.10 OF THE MUNICIPAL CODE TO COMPLY WITH STATE
MANDATES REGARDING ACCESSORY DWELLING UNITS AND MIDDLE
HOUSING FOR TIER 3 CITIES; ADOPTING OTHER RELATED AMENDMENTS TO
THE ZONING CODE; PROVIDING FOR SEVERABILITY;
AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the Town's police power under RCW 35.27.370(16) and is specifically authorized by RCW 35.63.110; and

WHEREAS, RCW Ch. 36.70A requires that each county or city outline their plan for growth in a Comprehensive Plan, establishes mandatory elements for the Comprehensive Plan, and requires that the Town take legislative action to periodically review and, if needed, revise its Comprehensive Plan and development regulations on a schedule as provided by statute; and

WHEREAS, in 2023 the Washington State legislature passed EHB 1337 (chapter 334, Laws of 2023) related to accessory dwelling units (ADUs), codified at RCW 36.70A.680 et seq.; and

WHEREAS, in passing EHB 1337, the State legislature found that Washington state is experiencing a housing affordability crisis and many communities across the state are in need of more housing for renters across the income spectrum; and

WHEREAS, the State legislature further found that many cities dedicate the majority of residentially zoned land to single detached houses that are increasingly financially out of reach for many households, and, due to their smaller size, accessory dwelling units may provide a more affordable housing option in those single-family zones; and

WHEREAS, in 2023 the Washington State legislature passed E2SHB 1110 (chapter 332, Laws of 2023) related to middle housing, codified at RCW 36.70A.635 through 638; and

WHEREAS, in passing E2SHB 1110, the State legislature found that there is continued need for the development of housing at all income levels, including middle housing that will provide a wider variety of housing options and configurations to allow Washingtonians to live near where they work and that homes developed at higher densities are more affordable by design for Washington residents both in their construction and reduced household energy and transportation costs; and

WHEREAS, in 2024 the Washington State legislature passed E2SHB 2321 (chapter 152, Laws of 2024), which modified certain middle housing requirements in RCW 36.70A.635, as well as amended definitions in RCW 36.70A.030; and

WHEREAS, the adoption of this ordinance will bring the Town of Beaux Arts Village into compliance with RCW 36.70A.635 through 638 and 680, 681 and 696 and will serve the general welfare of the public; and

WHEREAS, the Planning Commission held open public meetings on September 19, 2024, October 17, 2024, November 21, 2024, January 16, 2025, and February 27, 2025 to consider revisions to Chapter 18.10 of the Beaux Arts Village Municipal Code (BAVMC) to bring the Town's zoning and development regulations into compliance with EHB 1337, E2SHB 1110, and E2SHB 2321; and

WHEREAS, the Beaux Arts Planning Commission conducted public hearings to take testimony from the public on proposed amendments to Chapter 18.10 BAVMC on November 21, 2024 and February 27, 2025 ; and

WHEREAS, the Beaux Arts Town Council conducted public hearing(s) on March 11, 2025, April 8 2025, and May 13, 2025 to take public testimony on the proposed zoning code amendments contained in this ordinance; and

WHEREAS, the Town of Beaux Arts Village provided the proposed amendments to Chapter 18.10 BAVMC contained in this ordinance to the Washington State Department of Commerce with a 60-day Notice of Intent to Adopt on March 7, 2025, pursuant to the requirements of RCW 36.70A.106; and

WHEREAS, in accordance with the State Environmental Policy Act (SEPA), the City's responsible SEPA Official issued a Determination of Nonsignificance (DNS) regarding the proposed amendments to Chapter 18.10 BAVMC contained in this ordinance on January 27, 2025, pursuant to WAC 197-11-340; and

WHEREAS, the Town Council has considered the proposed amendments to Chapter 18.10 contained in this ordinance and finds that they are consistent with the Comprehensive Plan, the Growth Management Act, and regulations recently adopted by the Washington State Legislature in EHB 1337, E2SHB 1110, and E2SHB 2321, concerning Accessory Dwelling Units (ADUs), middle housing, and related legal requirements; and that adoption of this ordinance is in the best interests of the Town and will promote the general welfare of its residents; **NOW THEREFORE**,

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

Section 1. The foregoing recitals are hereby adopted as the findings and conclusions of the Town Council.

Section 2. The following sections of the Zoning Code, Chapter 18.10 BAVMC, are hereby amended as shown in the attachments to this ordinance:

18.10.020 Definitions

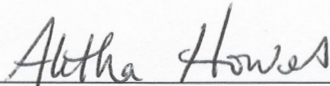
- 18.10.040 Use and occupancy of real property
- 18.10.080 Location, size and height
- 18.10.085 Middle housing
- 18.10.090 Off-street parking facilities and driveways
- 18.10.160 Nonconforming uses

Section 3. A new section 18.10.210, Severability, is added to Chapter 18.10 BAVMC, as shown in the attachments to this ordinance.

Section 4. Severability. If any section, paragraph, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that they would have passed this Ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases may subsequently be found by competent authority to be unconstitutional or invalid.

Section 5. Effective Date. This ordinance shall take effect upon publication as provided by law.

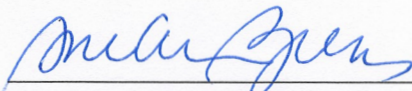
PASSED by the Council of the Town of Beaux Arts Village this 10th day of June, 2025.




Aletha Howes, Mayor

Attest:

Approved as to form:



Sue Ann Spens, Clerk-Treasurer



David Linehan, Town Attorney

Chapter 18.10 ZONING

Sections:

- 18.10.010 Title, purpose, and interpretation.
- 18.10.020 Definitions.
- 18.10.030 Comprehensive plan consistency.
- 18.10.040 Use and occupancy of real property.
- 18.10.045 Permanent supportive housing and transitional housing facilities.
- 18.10.050 Size and configuration of building lots.
- 18.10.060 Commercial activities.
- 18.10.070 Western Academy of Beaux Arts open space land.
- 18.10.080 Location, size and height of buildings and structures, appurtenant buildings, structures and devices – Lot coverage – Gross floor area.
- 18.10.085 Middle Housing.
- 18.10.090 Off-street parking facilities and driveways.
- 18.10.100 Fences.
- 18.10.110 Satellite receiving systems – Permit required.
- 18.10.120 Ground-level structures.
- 18.10.130 *Repealed.*
- 18.10.140 Subdivision and boundary line revisions (adjustments).
- 18.10.150 Sanitary facilities.
- 18.10.160 Nonconforming uses, buildings and structures, and building lots.
- 18.10.170 Variances.
- 18.10.180 Restrictions, limitations, and requirements.
- 18.10.190 Enforcement and penalties.
- 18.10.200 Repeal or amendment of this chapter.
- 18.10.210 Severability.

18.10.020 Definitions.

"Accessory dwelling unit (ADU)" means a habitable living unit added to, created within, or detached from a primary one-unit single family dwelling, which together constitute a single interest in real estate. It is a separate additional living unit, including kitchen, sleeping, and bathroom facilities.~~a subordinate dwelling unit incorporated within the primary residential building or in an accessory building located on the same building lot of record.~~

"Accessory" means a use, activity, structure, or part of a structure which is subordinate and incidental to the main activity or structure on the subject property.

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

"Alter" or "alteration" means any change to an existing structure.

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

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

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

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

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

"Building official" means the person or firm employed by the town to provide building department services and to perform the duties of the building official as set forth in the State Building Code.

"Council" means the town council of the town of Beaux Arts Village, Washington.

"Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d)

frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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

"Development Regulations" or "regulation" means the controls placed on development or land use activities by the town, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, subdivisions ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the town.

"Development standards" means controls placed by the town on building or site design and development including parking requirements, floor area allowances, density allowances, maximum impervious surface and/ or structural coverages, and other dimensional standards.

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

"Driveway" means the egress and ingress between the paved roadway and the parking facilities on a property (e.g., garages, carports, and parking pads), including both the private property and town right-of-way portion. For purposes of this chapter, the driveway width is defined as the width of the parking facilities.

"Dwelling, single-family" ~~means a building containing but one kitchen, is a standalone dwelling unit~~ designed for and occupied exclusively by one family, featuring its own land, kitchen, bathroom and utilities, without sharing walls with another dwelling unit, except where an attached accessory dwelling unit exists.

"Dwelling unit" means a ~~single-family house, groups of rooms, or single room, which are occupied, or vacant, but intended for occupancy, as separate living quarters. Specifically, there is a dwelling unit when the occupants live and eat separately from any other persons in the structure and there is either (1) direct access to the unit from the outside or through a common hall, or (2) complete kitchen facilities for the occupants' exclusive use.~~ A single unit providing complete, independent living facilities for one or more persons including permanent provisions of living, sleeping, eating, cooking and sanitation.

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

"Family" means one or more persons, either related or unrelated, living together as one household where all members have common access to and common use of all living, kitchen, and eating areas within the dwelling unit, and household activities and responsibilities such as meals, chores, expenses, and maintenance of the premises are shared or carried out according to a household plan or other customary method.

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

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

"Floor level" means the uppermost horizontal surface of a floor.

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

"Gross floor area" means the number of square feet of total floor area bounded by the inside finished wall surface of the outer building walls of a structure as well as the area of any deck that is 30 inches or more above finished grade at any point. ~~exterior faces of the building.~~ The gross floor area of a single-family dwelling, therefore, shall include:

(1) The main building, including but not limited to attached accessory structures.

(2) All garages, ~~and~~ covered parking areas, and detached accessory buildings with a gross floor area over 200 square feet.

(a) The portion of a garage floor that is located below finished grade may be excluded from the gross floor area in the same manner as a basement.

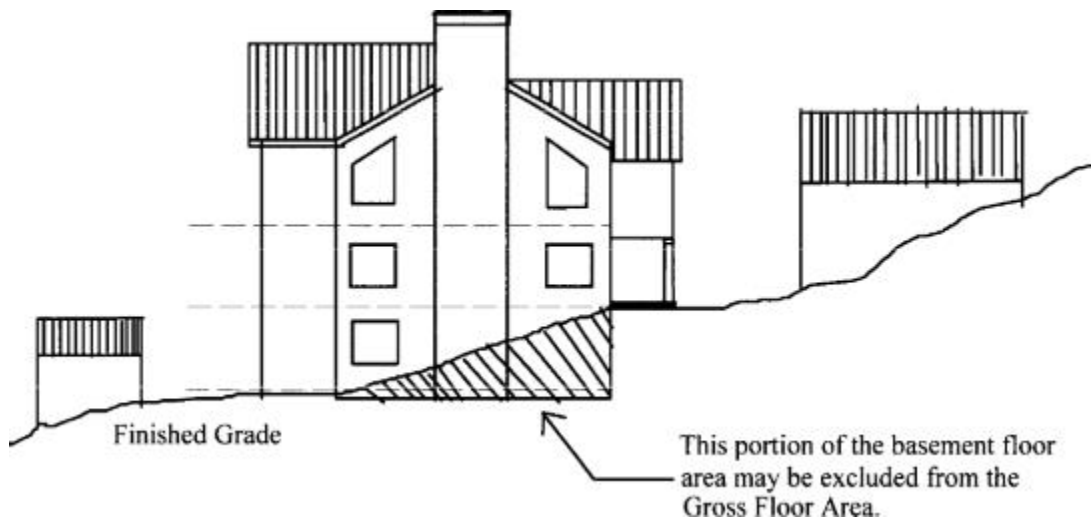
(3) The area of any deck that is 30 inches or more above finished grade at any point.

(a) Building projections are considered appurtenant buildings or devices and as such, are subject to setback requirements.

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

Basement Floor Area Calculation

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



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

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

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

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

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

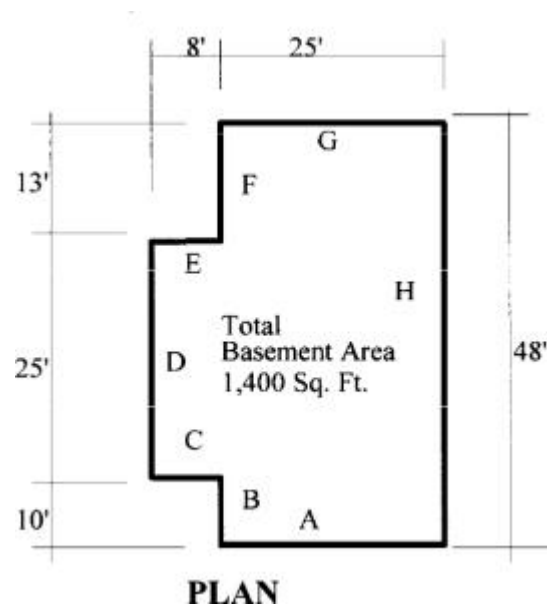
Example of Basement Floor Area Calculation

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

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

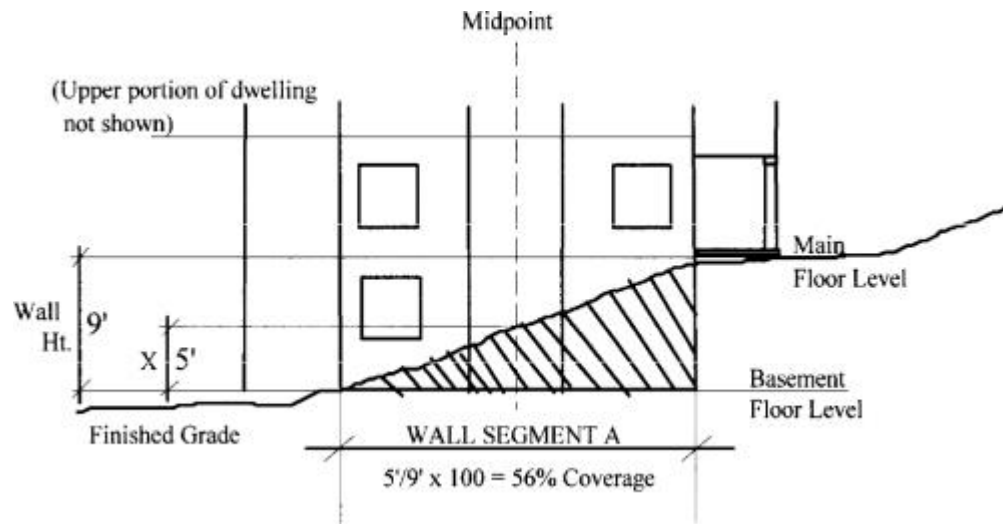
Step One.

Determine the number and lengths of the wall segments.



Step Two.

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



Step Three.

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

Table of Wall Lengths and Coverage

Wall Segment	Length	Coverage	Result
A	25 ft.	56%	14 ft.
B	10 ft.	0%	0 ft.
C	8 ft.	0%	0 ft.

D	25 ft.	0%	0 ft.
E	8 ft.	0%	0 ft.
F	13 ft.	0%	0 ft.
G	25 ft.	60%	15 ft.
H	48 ft.	100%	48 ft.
TOTALS	L=162 ft.		R=77 ft.

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

Step Four.

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

Portion of Excluded Basement Floor Area = (Total Basement Floor Area) x (R/L)

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

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

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

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

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

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

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

“Impervious surface” means hard surfaces which prevent or impede the entry of water into the soil or those which cause water to run off the surface at an increased rate of flow when compared to the existing condition immediately prior to development. ~~all of the following~~ All of the following are considered impervious surfaces:

- ~~the~~ The footprint of buildings and structures including all eaves; overhanging and/or cantilevered portions of a porch, carport, and/or garage roof;
- ~~vehicular~~ Vehicular use areas including driveways, streets, and parking areas ~~whether~~ constructed of gravel, pavers, concrete, asphalt, and/or other hard surfaces ~~pavement, concrete or other material that allows vehicular travel;~~
- ~~recreational~~ Recreational facilities including patios, porches, sports courts, swimming pools, ornamental pools, hot tubs whether temporary or permanent, and other similar facilities;
- ~~landscaping~~ Landscaping or structural rocks and walls ~~or rockeries; and~~
- ~~miscellaneous~~ Pedestrian walkways and other miscellaneous other hard surfaces which meet the impervious surface definition above, including decks, which prevent or impede the entry of water into the soil or cause water to run off the surface in greater quantities or at an increased rate of flow under natural conditions prior to development.

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

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

“Lot” means a fractional part of subdivided lands having fixed boundaries. The term shall include all land held as a unit, regardless of whether described on plats or in documents of title as one or several tracts,

blocks, lots, parcels or portions thereof. Land is held as a unit if contiguous and beneficially owned or controlled by one person or by a group of affiliated persons (such as a marital community, or joint venture, or partnership or a corporation and/or one or more of its subsidiaries, officers, directors or stockholders, etc.) acting together with respect to the land. This definition also applies to a tract or parcel.

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

“Major transit stop” means:

- (a) A stop on a high-capacity transportation system funded or expanded under the provisions of chapter ~~RCW~~ 81.104 RCW;
- (b) Commuter rail stops;
- (c) Stops on rail or fixed guideway systems including transitways; ~~or~~
- (d) Stops on bus rapid transit routes, ~~including those stops that are under construction or routes that run on high occupancy vehicle lanes; or~~
- (e) [Note that (e) only applies to RCW 36.70A.696 – Accessory Dwelling Units.] Stops for a bus or other transit mode providing actual fixed route service at intervals of at least fifteen minutes for at least five hours during the peak hours of operation on weekdays.

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

“Middle housing” means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

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

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

~~“Owner occupancy” means a property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year, and at no time receives rent for the owner-occupied unit.~~

“Owner” means any person or legal entity who has at least 50 percent ownership in a property on which an accessory dwelling unit is located.

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

“Permanent supportive housing” as defined in RCW [36.70A.030](#) which includes subsidized, leased housing with no limit on length of stay, paired with on-site and off-site voluntary services designed to support a person living with a disability to be a successful tenant in a housing arrangement, improve the resident’s health status, and connect residents of the housing with community-based healthcare, treatment, and employment services.

~~“Primaryncipal unit” means the primary~~principal single-family housing unit located on the same lot as an accessory dwelling unit.

“Reconstruction” means any construction in which (1) the “reconstruction value” is equal to or greater than \$750,000 over a three-year period or (2) “modified exterior walls” meet or exceed 50 percent of the exterior perimeter over a three-year period. Solely for the purpose of determining if a project meets the definition of “reconstruction,” the following additional definitions apply:

“Modified exterior perimeter walls” means all changes to the entire exterior perimeter of walls from the bottom plate at the foundation to the top plate at the uppermost level, and includes replacement of wall studs whether due to wall changes or structural integrity; enlarging or relocating existing openings; removal or addition of exterior sheathing; and new or removed elements on the exterior walls; however, “modified exterior perimeter walls” does not include replacement of doors or glazing where the size of the exterior opening does not change, replacement of exterior siding, or painting.

“Reconstruction valuation” means the entire construction cost of the project, excluding the following specific items only: taxes, appliances, and specific equipment and labor costs for mechanical, plumbing, and electrical systems.

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

“Remodel” means any construction in which (1) the “remodel valuation” is less than \$750,000 over a three-year period or (2) “modified exterior walls” are less than 50 percent of the exterior perimeter over a three-year period. Solely for the purpose of determining if a project meets the definition of “remodel,” the following additional definitions apply:

“Modified exterior perimeter walls” means all changes to the entire exterior perimeter of walls from the bottom plate at the foundation to the top plate at the uppermost level, and includes replacement of wall studs whether due to wall changes or structural integrity; enlarging or relocating existing openings; removal or addition of exterior sheathing; and new or removed elements on the exterior walls; however, “modified exterior perimeter walls” does not include replacement of doors or glazing where the size of the exterior opening does not change, replacement of exterior siding, or painting.

“Remodel valuation” means the entire construction cost of the project, excluding the following specific items only: taxes, appliances, and specific equipment and labor costs for mechanical, plumbing, and electrical systems.

“Retaining walls, ~~rockeries~~” means a wall of masonry, wood, rock, metal, or other similar or combination of similar materials that bears against earth or other fill material for the purpose of resisting lateral or other forces in contact with the wall and/or the prevention of erosion. This term shall include, but not be limited to, landscaping walls, rockeries, and all other structural walls.

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

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

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

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

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

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

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

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

“Short-term rental” means a lodging use in which a dwelling unit, or portion thereof, is offered or provided to a guest by a short-term operator for a fee for fewer than 30 consecutive nights.

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

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

“Structural coverage” means the total horizontal area covered by buildings and structures, but not to include decks less than 30 inches ~~high~~ above finished grade and other impervious surfaces.

“Structure” means that which is erected, built or constructed, including an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, ~~and including the construction or installation of any impervious slabs or surfaces.~~

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

“Transitional housing” means a project that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living.

“Unit density” means the number of dwelling units allowed on a lot, regardless of lot size.

Other Definitions. ~~When any word used in this chapter is not specifically defined herein, its definition shall be its ordinarily accepted meaning within the context used. Webster’s Third New International Dictionary of the English Language Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings.~~ When any word used in this title is not specifically defined herein, its definition shall be that in the latest edition of *Merriam-Webster’s Collegiate Dictionary of the English Language* and where more than one definition is given, the most common or appropriate nonprofessional usage shall govern.

18.10.040 Use and occupancy of real property.

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

(2) The only structures permitted in the town are single-family dwelling units and structures accessory thereto, or duplexes. No more than one duplex or one single-family dwelling unit and with one accessory dwelling unit, subordinate to and either attached to or detached from the single-family dwelling unit, may be constructed ~~or occupied on each building lot of record~~ on a single building lot that meets the minimum lot size required for the principal unit.

(3) ~~Either the single-family dwelling unit or the accessory dwelling unit must be occupied by an owner of the property that meets the definition of owner occupancy in BAVMC 18.10.020. The town may not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the ground that the condominium unit was originally built as an accessory dwelling unit (RCW 36.70A.681(1)(k)).~~

(4) ~~The accessory dwelling unit gross floor area shall be less than 800 square feet (measured to the face of the exterior walls and exclusive of related garage area) and it shall include separate kitchen, living, and bathroom facilities. The accessory dwelling unit floor area shall be a minimum of 400 square feet (exclusive of related garage area), a maximum of 1,250 square feet, and it shall include separate living, sleeping, eating, cooking and sanitation facilities which are independent from the primary unit.~~

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

(6) ~~The gross floor area of the accessory dwelling unit (measured to the face of the exterior walls and exclusive of any related garage area) shall not exceed 40 percent of the total gross floor area of the primary residence and accessory dwelling unit combined, excluding any garage area. Conversion of an existing non-conforming structure, such as a detached garage, to an accessory dwelling unit is allowed so long as all other parking requirements are met.~~

(7) House trailers, campers, caravans and all other vehicles or structures adapted to serve as movable or portable living quarters may not be used as living quarters within the town of Beaux Arts Village, upon public or private property, except that a member of the household of a resident or temporary guests of a

resident of the town may use such living quarters upon the premises and with the consent of such resident for a period not exceeding 14 consecutive days.

(8) The accessory dwelling unit shall meet all technical code standards in BAVMC Title [15](#), including [but not limited to, environmental,](#) building, electrical, fire, and plumbing code requirements.

~~(9) A single building lot may not contain both an accessory dwelling unit and a commercial activity subject to the regulations in BAVMC 18.10.060 for a commercial activity permit. The town is not authorized to allow construction of buildings and structures in locations where such development is restricted under other laws, rules, or ordinances due to its physical proximity to critical areas, or other unsuitable physical characteristics or a property. All development within the town therefore, will be reviewed for consistency with any existing and future critical area protection ordinance provisions, and shall be allowed only when consistent. All development must be designed and located to avoid critical area impacts including providing for mitigation as defined in WAC 197-11-768.~~

Critical areas include the following:

- Wetlands.
- Fish and wildlife habitat conservation areas.
- Floodplains.
- Geologically hazardous areas including areas susceptible to erosion, sliding (steep slopes), earthquake, or other geological events.
- Critical aquifer recharge areas [including wellhead protection zones.](#)

~~(10) There shall be one off street parking space provided for the accessory dwelling unit, which is in addition to any off street spaces required for the primary residence.~~

~~(11) The construction of a second entry door facing a street front for entrance into an accessory dwelling unit is prohibited; new entrances not facing a street front are permitted on the sides and rear of a house, or on the front side of a house facing a street where no other entry door exists; provided, that existing single family structures with two or more entry doors facing a street shall not be prohibited from using one of those doors to access the accessory unit.~~

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

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

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

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

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

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

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

(c) The perimeter face of any building or structure shall not exceed 30 feet above finished grade.

(5) The structural coverage area shall not exceed 30 percent of the total building lot area.

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

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

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

(9) Structures within Setbacks.

(a) The following structures ~~may be~~are allowed within all setback areas:

- ~~fences~~Fences;
- ~~retaining~~Retaining walls; ~~rockeries~~ up to 30 inches tall;
- ~~ornamental~~Ornamental landscape structures (including rocks and walls) up to 30 inches tall, including ornamental pools of any depth;

-
- ~~garden~~ Garden arbors up to nine feet tall and up to 18 inches in depth;
 - ~~eaves~~ Eaves or roof overhangs up to 18 inches in depth;
 - ~~e~~ One chimney up to 18 inches in depth and no wider than six feet.

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

(c) Mechanical equipment and similar appurtenances are not allowed in the setback area.

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

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

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

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

(14) All setbacks shall be measured from the lot line to the outermost projection of any structure, including, but not limited to, porches, overhanging portions of the roof, carports, garages, and cantilevered portions.

18.10.085 Middle Housing.

(1) Duplexes are the only middle housing type allowed in the town and construction must meet the development standards and regulations for primary residential structures.

(2) The provisions of BAVMC 18.10.085 do not apply to:

(a) Portions of a lot, parcel, or tract which has critical areas or their buffers recognized under RCW 36.70A.170, except for critical aquifer recharge areas where a single-family detached house is an allowed use provided that any requirements to maintain aquifer recharge are met;

(b) A watershed serving a reservoir for potable water if that watershed is or was listed, as of July 23, 2023, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d));

(c) Lots that have been designated urban separators by countywide planning policies as of July 23, 2023; or

(d) A lot that was created through the splitting of a single residential lot.

18.10.090 Off-street parking facilities and driveways.

- (1) ~~Single-family dwelling units constructed or reconstructed after the effective date of the ordinance codified in this chapter shall include garages or carports for a minimum of two cars in conformance with subsection (4) of this section.~~ Not used.
- (2) Before adding ~~additional~~ gross floor area to an existing ~~residence~~ lot, ~~or erecting an appurtenant structure thereto,~~ existing single-family dwelling units shall provide parking spaces (enclosed or open) ~~and/or garages or carports~~ for a minimum of two cars, as defined in subsection (4) of this section.
- (3) In addition to the requirements of subsections ~~(1) and~~ (2) of this section, additional parking spaces shall be provided for all boats, trailers and recreational vehicles that occupants regularly park or keep at any dwelling. These parking spaces shall be screened from view from the street and/or adjoining property by a fence or natural foliage. Passenger, recreational and utility vehicles must be parked in compliance with all town regulations.
- (4) In order to meet the requirements of subsections ~~(1) and~~ (2) of this section, the size, location, and design of garages and carports, parking spaces and driveways shall be as follows:
- (a) The minimum size of each newly created parking space, exclusive of aisles and driveways, shall be ~~180 square feet~~ 8 feet wide by 20 feet long per vehicle.
 - (b) Garages and carports used to meet the parking requirement shall be located on the same parcel of real property as the single-family dwelling unit and must be further located so as to comply with the setback requirements applicable to buildings and appurtenant devices as set forth in the ordinances of the town.
 - (c) Parking spaces shall be located on the same parcel of real property as the single-family dwelling unit and not on any portion of the town's right-of-way. Side setback requirements must be observed.
 - (d) Driveways installed on privately owned property within the town may be constructed of gravel, asphalt, concrete or such other suitable driveway finishing material as may be approved by the town building official and may be located adjacent to the property line provided they are used for no purpose other than ingress to and egress from a garage, carport or other parking facility.
 - (e) Parking spaces and driveways shall not be constructed of impervious materials without a building permit.

(5) Off-street parking for middle-housing:

(a) One off-street parking space per dwelling unit is required on lots less than 6,000 square feet, before any zero lot line subdivision or lot split.

(b) A maximum of two off-street parking spaces per unit are required on lots greater than or equal to 6,000 square feet before any zero lot line subdivision or lot split.

(6) The provisions of subsection (5) do not apply to:

a.) Portions of the town for which the Department of Commerce has certified a parking study in accordance with RCW 36.70A.635(7)(a), in which case off-street parking requirements shall be as provided in the certification from the Department of Commerce.

(7) There shall be a minimum of two off-street parking spaces provided for each accessory dwelling unit, which is in addition to any off-street spaces required for the principal unit as long as it does not conflict with the provisions of subsections (5) and (6) above.

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

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

(1) Nonconforming Uses.

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

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

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

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

(2) Nonconforming Buildings or Structures.

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

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

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

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

(e) Conversion of a lawfully established existing nonconforming structure to an accessory dwelling unit is allowed provided that any existing nonconformity is not increased.

(3) Nonconforming Building Lot. Any nonconforming lot upon which a single-family residence lawfully existed at the date of the adoption of the ordinance codified in this chapter, or any lot created under the town subdivision ordinance (Chapter [17.05](#) BAVMC), is hereby permitted to continue and to be maintained and operated in accordance with this chapter. [Ord. 433 § 1 (Att. A), 2018; Ord. 372 § 16, 2009]

18.10.210 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter 18.10 is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Chapter 18.10.