

ORDINANCE NO. _____

AN ORDINANCE RELATING TO ENVIRONMENT AND LAND USE PLANNING, AMENDING BELLINGHAM MUNICIPAL CODE (BMC) TITLES 16 AND 20 REGARDING ACCESSORY DWELLING UNITS (ADUs), INCLUDING ALLOWING DETACHED ADUs IN SINGLE FAMILY ZONES CITYWIDE, A DETACHED ADU PILOT PROGRAM FOR THE HAPPY VALLEY NEIGHBORHOOD, AND RELATED AMENDMENTS TO BMC 20.30.100 AND 20.32.110 TO ELIMINATE THE REQUIRED 10' GARAGE DOOR SETBACK FROM PUBLIC ALLEYS FOR DETACHED ACCESSORY BUILDINGS.

WHEREAS, State Law RCW 43.63A.215 and RCW 36.70A.400, adopted as part of the 1993 Washington Housing Policy Act, require Washington cities with populations over 20,000 to adopt regulations to allow accessory dwelling units (ADUs); and

WHEREAS, in 1995, the Bellingham City Council (Council) approved Ordinance No. 10643 which allowed attached ADUs (A-ADUs) citywide and included a provision that Council shall review said Ordinance 1) two years following the effective date of the ordinance, and 2) after the 20th ADU permit is issued in any neighborhood as defined by the Comprehensive Plan, with intent to determine how the ordinance was working and to determine what, if any, of the regulations needed to be modified or eliminated; and

WHEREAS, in 1997, Council reviewed Ordinance No. 10643 whereupon 14 ADU permits were issued, 6 ADUs were completed and the ADUs were dispersed throughout the City's neighborhoods, and Council elected to make no changes to the ordinance at that time; and

WHEREAS, in 2001, Council adopted Ordinance No. 2001-01-001 which added a new chapter (16.80 - Lake Whatcom Reservoir Regulatory Chapter) to the BMC, and included provisions restricting ADUs within the Lake Whatcom Watershed; and

WHEREAS, in 2009, Council adopted Ordinance No. 2009-08-047 which added a new chapter (20.28 - Infill Housing) to the BMC, and included provisions allowing carriage units and detached ADUs (both ADU housing forms) generally in areas that allow housing other than most single family zones and within the Lake Whatcom Watershed; and

WHEREAS, in 2016, Council adopted the 2016 Bellingham Comprehensive Plan (Comprehensive Plan) via Ordinance 2016-11-037 which includes updated goal and policy guidance on neighborhood preservation, infill development, housing, and ADUs; and

WHEREAS, the Comprehensive Plan directs that the unique character and qualities of existing neighborhoods be protected, while identifying opportunities for improved livability, safety, and housing affordability and diversity (Policy LU-4); and

WHEREAS, the Comprehensive Plan directs that the City make more efficient use of the remaining City land supply by facilitating development on existing lots of record; developing flexible code provisions that allow a range of housing types; and other steps necessary to make better use of the remaining land supply (Policies LU-10, CD-32 and 33, ED-30, H-16); and

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48 **WHEREAS**, the Comprehensive Plan directs that the City encourage preservation, restoration, and
49 appropriate adaptive reuse of historic properties (Policy LU-76); and

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51 **WHEREAS**, the Comprehensive Plan directs that the City accommodate the changing needs of
52 residents as they age (Policy LU-85); and

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54 **WHEREAS**, the Comprehensive Plan directs that the City provide builders, developers and architects
55 with a set of clear objectives and performance goals which promote the highest attainable standard
56 of quality consistent with economic feasibility for new development (Policy CD-14); and

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58 **WHEREAS**, the Comprehensive Plan directs that the City limit urban sprawl by linking land use and
59 transportation planning (Goal T-1), reduce dependence on single-occupancy vehicles (Goal T-4), and
60 review parking standards to reduce the impacts of parking on urban form, pedestrian mobility, and
61 the natural environment (LU-71); and

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63 **WHEREAS**, ADUs can provide housing options for those at the beginning of their housing cycle, and
64 those at the end of their housing cycle; and

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66 **WHEREAS**, in 2017, the 20th ADU permit was issued in the South Hill Neighborhood, triggering this
67 second review of Ordinance No. 10643; and

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69 **WHEREAS**, the City conducted outreach and attended numerous neighborhood sponsored
70 meetings; and

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72 **WHEREAS**, the City convened an ADU Focus Group of 13 members from a cross section of different
73 interest groups and tasked them with identifying opportunities and concerns with allowing ADUs;
74 and

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76 **WHEREAS**, the City convened a Technical Group of 5 local architects, designers, and builders to
77 review the City's ADU development and design standards, and identify recommended changes; and

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79 **WHEREAS**, the Happy Valley Neighborhood Association formed an ADU Committee and conducted
80 outreach within the neighborhood promoting innovative small scale infill housing, including
81 detached ADUs (D-ADUs), and engaged staff for assistance, culminating in a vote of its officers at a
82 quarterly meeting for a Pilot Program allowing D-ADUs in single family zoned areas of the Happy
83 Valley Neighborhood which was submitted to the City for incorporation into this ordinance; and

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85 **WHEREAS**, on January 4, 2018, the City of Bellingham as lead agency under the procedures of the
86 State Environmental Policy Act issued a Determination of Non-Significance; and

87
88 **WHEREAS**, in accordance with the Growth Management Act, the State of Washington Department
89 of Commerce was notified on January 4, 2018 of the City's intent to adopt the amendments to the
90 City's environment and land use regulations; and

91
92 **WHEREAS**, the Bellingham Planning Commission held two work sessions in 2015 and three in 2017,
93 on staff's preliminary findings and recommendations for amendments, with appropriate public
94 notice provided; and

95
96 **WHEREAS**, the Bellingham Planning Commission held a public hearing on January 25, 2018 on the
97 amendments, with appropriate public notice provided, and held two work sessions following; and
98

99 **WHEREAS**, the Planning Commission considered the staff report and comments received, and
100 recommended approval of the proposed ordinance with some changes to the proposal; and
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102 **WHEREAS**, the Planning Commission adopted Findings of Fact, Conclusions and Recommendations
103 to the City Council on February 15, 2018; and
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105 **WHEREAS**, the Bellingham City Council held a public hearing on April 9, 2018 on the amendments,
106 with appropriate public notice provided; and
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108 **WHEREAS**, the City Council finds that the amendments are appropriate and consistent with the
109 State Growth Management Act and the Bellingham Comprehensive Plan;
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111 **NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**
112

113 **Section 1.** BMC 16.80.060(A) regarding Permitted Uses within the Lake Whatcom Reservoir
114 Regulatory Provisions is amended as follows:

115 A. Residential Single Permitted Uses – Uses Permitted Outright. No building or land shall be
116 used within an area designated residential single, except as follows:

- 117 1. Single-family dwelling unit with less than 5,500 square feet of total floor area.
118 2. Publicly owned parks, trails and playgrounds.
119 3. Private recreation facilities and/or common open space (when approved by council as
120 part of a subdivision).
121 4. Mixed use (where such a use is specifically listed in a neighborhood land use plan, which
122 has been designated with a “mixed” use qualifier).
123 5. Public utilities (when located within a public right-of-way).

124 6. Attached accessory dwelling unit approved prior to January 8, 2001 (consistent with
125 procedures and requirements outlined in BMC 20.10.036).

126 ~~6-7.~~ Attached and Detached accessory dwelling units existing prior to January 1, 1995
127 (consistent with procedures and requirements outlined in BMC 20.10.~~035~~.036).

128 ~~7-8.~~ Confidential shelters subject to the provisions of BMC 20.10.047.

129 ~~8-9.~~ Wireless communication facilities, subject to the provisions of Chapter 20.13 BMC.

130 ~~9-10.~~ Co-housing developments subject to the requirements of BMC 20.10.048.

131 ~~10-11.~~ No residential single lot or parcel may be partially or entirely cleared of vegetation
132 or used as a soil/earth/rock material fill site without having first obtained a valid

building permit subject to this regulatory chapter. Written exemptions may be issued by the director for minor clearing for land surveying, hazard tree removal, or abatement of noxious weeds. Hazard tree determinations shall be made by an ISA certified arborist; replacement trees shall be required.

~~11-12.~~ Animal husbandry including the breeding, rearing or keeping of livestock such as, but not limited to, cattle, bison, horses, mules, ponies, donkeys, llamas, alpacas, sheep, goats, pigs or poultry shall not be permitted. Except, properties at which animal husbandry is currently being conducted as of the effective date of the ordinance codified in this chapter may be permitted to continue at existing sites, provided the existing use shall not be expanded, enlarged or increased in intensity by any means nor shall animals be replaced due to death of an animal. It shall be the property owner's responsibility to obtain a certificate of nonconforming use and provide evidence that such use was established, including the specific type and quantity of animal(s) as of the effective date of the ordinance codified in this chapter. The certificate of nonconforming use shall not be transferable to another person or entity.

Section 2. BMC 20.00.200 Sunnyland Neighborhood Table of Zoning Regulations, Attachment 1 to Area 8, is amended as follows:

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
8	Residential Single	Detached, mixed. (See Special Regulations)	5,000 sq. ft. per unit	Restrict through vehicular access between Sunset Drive and Illinois Street. Provide a public nonmotorized connection between Sunset Drive and Illinois Street.	None	All residential development is limited to those housing forms listed in Attachment 1.

Attachment 1

Residential development in Area 8 is limited to:

1. Attached ~~and detached~~ accessory dwelling units subject to the provision in BMC 20.10-~~035.036.~~
2. Infill housing subject to the provisions in Chapter 20.28 BMC, and further limited to the following infill housing forms and standards:
 - a. BMC 20.28.060, Smaller house, ~~and~~
 - b. BMC 20.28.070, Small house.
 - ~~b-c.~~ BMC 20.28.080, Cottage.
 - ~~c. BMC 20.28.090, Carriage house.~~

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~~d. BMC 20.28.100, Detached accessory dwelling unit.~~

~~e.d.~~ BMC 20.28.140, Townhouse. Maximum of two units may be attached with each unit located on a "fee simple lot." Townhouses are not permitted along Illinois Street.

3. Single floor area limits specified in Chapter 20.28 BMC may be exceeded on the first story of a dwelling unit, provided the maximum floor area ratio allowed for each housing type is not exceeded.

Section 3. The following definitions in BMC 20.08.020 are amended as follows:

"Accessory dwelling unit," or "ADU," means a second, ~~subordinate~~ dwelling unit located on the same lot as, and subordinate to, a single-family dwelling unit for use as a complete, independent dwelling with permanent provisions for living, sleeping, eating, cooking, and sanitation. An ADU may consist of either of the following:

A. **"Attached accessory dwelling unit," or "A-ADU,"** means an accessory dwelling unit located within or attached to a single-family residence. To be considered attached the roof and wall of the accessory dwelling unit must be an extension of the roof and wall of the existing single-family residence. In no case shall the attachment be made through an unenclosed structure.

B. **"Detached Accessory Dwelling Unit," or "D-ADU,"** means an accessory dwelling unit that consists partly or entirely of a building that is accessory to a single-family dwelling unit. No new accessory dwelling unit may be located within a detached structure. Unpermitted detached accessory dwelling units existing prior to January 1, 1995, may be permitted. Approval shall be consistent with the accessory dwelling unit regulations and process outlined in BMC 20.10.035. The detached accessory dwelling unit shall be reviewed using the building code in place at the time its owner brings the unit forward for permit.

Section 4. BMC 20.10.035 relating to Accessory Dwelling Units is hereby REPEALED in its entirety.

Section 5. A new section, BMC 20.10.036 Accessory Dwelling Units, is hereby adopted as follows:

BMC 20.10.036 Accessory Dwelling Units.

A. Purpose and Authority.

1. It is the purpose of this legislation to implement policy provisions of the City's Comprehensive Plan promoting increased housing options and innovation that will help meet the needs of the many sectors of the community, including smaller households, students, millennials, Baby Boomers, people with disabilities, and low-income families; make more efficient use of public infrastructure and services; are within walking distance to shops, jobs, and amenities; encourage well-designed infill development; and improve the economic and social well-being of the community.
2. The director shall have the authority to approve accessory dwelling units (ADUs) which are consistent with single-family neighborhood character and the regulations and

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provisions herein. It is not the intent of these regulations to provide for ADUs on every residential property and they shall not be deemed to create a right or privilege to establish or maintain an ADU which is not strictly in compliance with these regulations.

3. Enforcement. The city retains the right (with reasonable notice) to inspect the ADU for compliance with this section.

B. Standards and Criteria.

1. Accessory Dwelling Units (ADUs) may be allowed in use qualifiers where listed as a permitted use if they comply with the requirements listed in this section, BMC 20.10.036, except on property regulated by Chapter 16.80 BMC, Lake Whatcom Reservoir Regulatory Provisions.
2. An ADU shall comply with all zoning code provisions for the primary residence, including height, setbacks, accessory buildings and open space, except as provided in this section, BMC 20.10.036. This provision shall also apply to ancillary structures attached to a D-ADU such as garages, carports, garden sheds and work-shops.
3. Applicants may request minor modifications to the development and design standards for ADUs. A minor modification is a request by the applicant to meet or exceed a particular ADU standard through the use of a technique or alternative standard not otherwise listed under the applicable requirement. Minor modifications are not variances and are not required to meet all of the criteria typically associated with a variance application. The director may grant a minor modification if the following criteria are met:
 - a. The site is physically constrained due to, but not limited to, unusual shape, topography, easements, existing development on site, or critical areas; or
 - c. The granting of the modification will not result in a development that is less compatible with adjacent neighborhood land uses and character; and
 - b. The granting of the modification will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and district in which the property is situated; and
 - d. The granting of the modification is consistent with the purpose and intent of this section BMC 20.10.036; and
 - e. All reasonable mitigation measures for the modification have been implemented or assured.
4. Ownership and Occupancy.
 - a. The ADU, or the land on which the ADU is located, shall not be subdivided or otherwise segregated in ownership from the primary dwelling unit or the land on which the primary dwelling unit is located.

- b. The total number of persons who may occupy the accessory dwelling unit shall not exceed four (4), regardless of relationship.
- c. The owner shall record a covenant with the Whatcom County Auditor, approved by the director, which shall run with the land as long as the ADU is maintained on the property. The property owner shall submit proof that the covenant has been recorded with the Whatcom County Auditor's office prior to issuance of the building permit. The covenant shall specify the requirements for owner occupancy, purchaser registration, and biannual verification as follows:
- 1) The owner of the subject property shall reside on the premises, whether in the primary or accessory dwelling; provided, that:
 - a) In the event of illness, death or other unforeseeable event which prevents the owner's continued occupancy of the premises, the Director may, upon a finding that discontinuance of the ADU would cause a hardship on the owner and/or tenants, grant a temporary suspension of this owner-occupancy requirement for a period of one (1) year. The Director may grant an extension of such suspension for one (1) additional year, upon a finding of continued hardship.
 - b) In the case of bringing an unpermitted ADU into compliance with BMC 20.10.036, if the property on which the ADU is located complies with all of the requirements of BMC 20.10.036 except owner-occupancy, the property may continue without occupancy by the owner for the remainder of the lease(s) on the property, not to exceed one year. Thereafter, the property shall be occupied by the owner, or transferred to a different owner who will reside on the premises.
 - 2) Purchasers of homes with an ADU shall register with the Planning and Community Development Department within 30 days of purchase.
 - 3) An affidavit, prepared by the Planning and Community Development Department and signed by the property owner, must be submitted to the Department on or before January 1st of every odd numbered year attesting to owner occupancy.

5. Site Requirements.

- a. Only one ADU shall be allowed per lot. The lot may not contain more than one primary dwelling unit. The ADU is exempt from density limitations due to its small size and low occupancy.
- b. For a D-ADU, the lot shall have alley access, access to more than one public street, or the lot size shall be at least 5,000 square feet.

258 6. ADU Size.

259 a. Attached and Detached ADUs.

260 1) An ADU shall not exceed 66% of the floor area of the primary dwelling
261 (excluding any related garage area attached to the primary dwelling), or 800
262 square feet, whichever is less, and shall contain a minimum square footage as
263 required by the building code.

264 2) No more than two bedrooms may be located within an ADU.

265 b. Attached ADUs. The Director may allow increased size for an A-ADU in order to
266 efficiently use all, or a portion of, the floor area on one floor of an existing dwelling
267 unit constructed as of (January 1, 1995), provided the ADU does not exceed 800
268 square feet.

269 c. Detached ADUs. The floor area for D-ADUs shall be calculated using the "general"
270 definition of floor area in BMC 20.08.020, and include ancillary space (garage,
271 workshop, garden shed, etc.) within. However, an accessory building that includes a
272 D-ADU and ancillary space may exceed 800 square feet when approved by the
273 hearing examiner by conditional use permit pursuant to BMC 20.16, provided the
274 floor area of the D-ADU does not exceed that specified in subsection (a)(1) of this
275 section.

276 7. Minimum Yards for D-ADUs.

277 a. Front and side-flanking yards shall comply with the zoning code provisions for the
278 primary residence except that when the vehicular entrance to an attached garage or
279 carport faces a street, the entrance shall be set back a minimum of 25-feet from the
280 front property line, and 10-feet from a side flanking property line.

281 b. A five-foot (5') side and rear yard setback shall be provided, measured from the
282 property line to the foundation of the structure, except as follows:

283 1) When abutting an alley, there is no required side or rear yard setback from the
284 alley.

285 2) A D-ADU may be located in a rear yard and in the rear 22 feet of an interior side
286 yard, provided:

287 a) If such an accessory building is to be located less than five feet from any
288 common property line, a joint agreement with the adjoining property
289 owner(s) must be executed and recorded with the Whatcom County
290 Auditor's Office and thereafter filed with the city, or

291 b) If site characteristics warrant such that, in the opinion of the director,
292 impacts to abutting property would be negligible due to, but not limited to,
293 one or more of the following:

- 294 i. The existing use and development pattern on abutting property.
- 295 ii. Minimal disruption of solar access to outdoor recreation or garden
- 296 space on abutting property compared to what may otherwise occur
- 297 with the application of standard development regulations.
- 298 iii. Site characteristics such as building a D-ADU downslope from abutting
- 299 property.
- 300 iv. Conversion of a detached accessory building existing as of the date of
- 301 adoption of this Ordinance to a D-ADU.
- 302 v. Any minor modification from standard development regulations
- 303 requested pursuant to this subsection (b)(2)(b) shall be processed as a
- 304 request for minor modification pursuant to subsection (B)(3) of this
- 305 section.
- 306 c. A minimum six feet (6') of separation is required between the primary residence
- 307 and a D-ADU.
- 308 8. Building Height for D-ADUs. A D-ADU shall be no higher than 20 feet under BMC
- 309 20.08.020, definition No. 1.
- 310 9. Parking. Parking required for an ADU is in addition to that required for the primary
- 311 dwelling unit.
- 312 a. One on-site parking stall is required for an ADU, except as follows:
- 313 1. No parking is required when adding a street curb cut for private on-site parking
- 314 would eliminate public on-street parking.
- 315 2. The director may reduce parking requirements based on the applicant's
- 316 demonstration of site-specific factors that justify a lower standard.
- 317 Any request for a parking waiver shall be processed as a request for minor
- 318 modification pursuant to subsection **(B)(3)** of this section.
- 319 b. Parking stalls shall be at least 9 feet by 18 feet.
- 320 c. Parking shall not be located in required front or side street setbacks. Parking in the
- 321 front portion of the lot shall be discouraged.
- 322 d. If the lot abuts an alley or private access easement, parking shall be accessed from
- 323 said facility except when the director determines that such access is impractical or
- 324 environmentally constrained. Any request to forgo alley access shall be processed as
- 325 a request for minor modification pursuant to subsection **(B)(3)** of this section.
- 326 e. Parking accessed from a street or lane shall be limited to one driveway per frontage
- 327 with a maximum width of 20 feet.

10. Privacy. Where practical, locate and design the ADU to minimize disruption of privacy and outdoor activities on adjacent properties. Strategies to accomplish this include, but are not limited to:

- a. Stagger windows and doors to not align with such features on abutting properties.
- b. Avoid upper level windows, entries and decks that face common property lines to reduce overlook of a neighboring property.
- c. Install landscaping as necessary to provide for the privacy and screening of abutting property.

11. Design Standards. ADU design standards are intended to ensure the single-family appearance and character of the property is maintained or improved when viewed from the surrounding neighborhood. Any minor modification granted from compatibility with the design of the primary residence should be compatible with the prevailing architectural character of the area.

- a. An ADU shall have similar roof pitch, siding, and windows as the primary dwelling.
- b. Design the size and proportions of a D-ADU to give the appearance that it is secondary to the primary dwelling unit on the site.
- c. ADU primary entry.
 - 1) The ADU entry shall be clearly subordinate to that of the primary dwelling when both are visible from the street frontage. Strategies to accomplish this include, but are not limited to, architectural design, entry location, and landscaping.
 - 2) Include an identifying feature such as a stoop and/or an eave overhang that is integral to the overall building design.
 - 3) The main ADU entry shall be a swing door, not slider.
 - 4) The entrance shall have direct access to a street via a lighted pedestrian path, driveway or alley.

12. Utilities

- a. Water, sewer, storm. A primary dwelling unit and an A-ADU may have a shared water service to a water system, a shared sewer service to a sewer system and a shared storm service to a stormwater management system. A primary dwelling unit and a D-ADU may also have shared service connections, however separate and independent services from each building may be required to meet City's adopted plumbing code. In all cases, the water service shut-off must be accessible to occupants of both units.
- b. Electrical. A primary dwelling unit and an A-ADU shall have no more than one electrical service. A primary dwelling unit and a D-ADU are permitted to have one shared electrical service or two separate electrical services. A separate meter is

permitted to serve an A-ADU or a D-ADU, subject to compliance with the City's adopted electrical code. A single main service panel may be allowed; provided, that occupants of both dwelling units have access to the overcurrent devices supplying their occupancy.

c. Gas. A primary dwelling unit and ADU may share natural gas services. An accessible shut-off valve must be upstream of the gas meter, on the exterior of the structure(s).

d. Any utility lines being installed or altered must have their connections inspected as part of the building permit process.

13. Compliance with Applicable Codes. The ADU shall comply with all standards for health and life safety as set forth in the International Building Code, International Residential Code, Uniform Plumbing Code, National Electrical Code, International Mechanical Code, International Fire Code, and Washington State Energy Code as each code is adopted by the city; and any other applicable codes or regulations, except as provided in this section 20.10.036 BMC.

14. Accessibility. To encourage the development of housing units for people with disabilities, the director may allow reasonable deviation from the stated requirements to install features that facilitate accessibility. Such facilities shall be in conformance with the City Adopted Building Code.

C. Existing Illegal Units.

1. Application may be made for any accessory dwelling unit existing prior to January 1, 1995, to become legally permitted, pursuant to the provisions of this section, BMC 20.10.036. Whether an ADU permit is approved or denied, the owner of any non-permitted unit shall be subject to the penalties provided in this code.

2. An application to legalize an existing ADU shall include an application for an ADU permit and a building permit application, showing changes made to the main residence or detached accessory building to accommodate the ADU. Approval shall be consistent with the ADU regulations and process outlined in this section, BMC 20.10.036. The ADU shall be reviewed using the current editions of building codes in place at the time its owner brings the unit forward for permit.

3. Nothing in this section shall require that the City permit existing ADUs that are determined to be dangerous.

D. Permitting Process. An ADU is required to obtain approval following the procedures established in Chapter 21.10 BMC.

E. Threshold Review. This ADU Ordinance shall be reviewed by City Council, whichever comes first:

1. By December 31, 2025, or

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2. When the city issues 200 D-ADU permits citywide, or
3. When the city issues 25 D-ADU permits in any one neighborhood as defined in BMC 20.00 Zoning Tables.

The unit count trigger shall only apply to new D-ADUs approved following adoption of this ordinance. The unit count trigger shall not apply to D-ADUs in those areas that were annexed into the city after 1995 with a "mixed" use qualifier that allows multifamily residential.

Section 6. Amend BMC 20.12.010(B)(3)(a) regarding the number of parking spaces required for an accessory dwelling unit, as follows:

USE	PARKING SPACE REQUIREMENT
(a) Residential	
i. through v.	[NO CHANGES]
vi. Accessory Dwelling Units	One for each bedroom, minimum of one for each ADU. These spaces must be located on site.
vii-vi. Senior Citizen Housing	The planning director may reduce the parking requirement below the amount required for other dwelling units, but not less than one-half space per unit, based on the actual anticipated demand after considering the following factors: a. A parking study supplied by the proponent showing the actual anticipated demand. b. Minimum age requirement to reside in the residential facility. c. Amount of services provided at the residential facility, including transportation. d. Parking management methods to be employed. If senior citizen housing ceases to be used for such purposes, additional off-street parking shall be required in compliance with this chapter.
viii-vii. Live/Work Unit	One parking space per live/work unit or one parking space per 500 square feet of gross floor area of all units in a project, whichever is greater.

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Section 7. BMC 20.28.020 regarding Infill Housing Applicability is amended as follows:

- A. The housing types in this chapter are not permitted in residential single zones, neighborhood commercial zones or property regulated by Chapter 16.80 BMC, Lake Whatcom Reservoir Regulatory Provisions, except in those areas that were annexed into the city after 1995 with a “mixed” qualifier that allows multifamily residential, and in Area 8 of the Sunnyland neighborhood. The housing types in this chapter are permitted in all other zones that allow residential, including specifically designated areas of urban villages. In the residential multi-duplex zone, only small house, smaller house, cottage, ~~detached accessory dwelling unit, carriage house~~ and duplex are permitted.
- B. If the provisions of this chapter conflict with any other provision in BMC Title 18, 20, or 21, the provisions of this chapter shall apply.

Section 8. BMC 20.28.040 regarding Infill Housing Definitions is amended as follows:

The following definitions apply to this chapter:

~~“Carriage house” means a second dwelling unit located above a parking garage and subordinate to a single family dwelling unit on the same lot.~~

“Common shared structure” means a building or structure designed and intended for the common use of the residents of the cottage housing.

“Cottage housing” means a coordinated grouping of four to eight small detached single-family dwellings clustered around common open space and having shared parking.

“Design guidelines” means guidelines for meeting the intention of the ordinance.

“Design standards” means requirements related to the design of the project. Developments are required to meet the design standards in this chapter.

~~“Detached accessory dwelling unit” means a second dwelling unit subordinate to, and detached from a single family dwelling unit on the same lot.~~

“Duplex” means a building containing only two dwelling units.

“Garden court housing” means four to eight dwelling units clustered around a common open space or courtyard.

“Shared court housing” means four to six dwelling units oriented to a shared courtyard providing access for both vehicles and pedestrians but designed to give priority to pedestrians.

“Small house” means detached single-family dwelling units on lots over 3,000 square feet but not more than 5,000 square feet in size.

“Smaller house” means detached single-family dwelling units on lots 1,800 square feet to 3,000 square feet in size.

“Townhouse” means a dwelling in a row of units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common walls.

“Triplex” means a building containing only three dwelling units.

Section 9. BMC 20.28.060(C) regarding Smaller House Bulk and Mass is amended as follows:

C. Bulk and Massing.

1. Maximum floor area ratio (FAR): 0.4, or 0.5 when an accessory dwelling unit is included pursuant to BMC 20.10.036. Attached garages are included in FAR. Detached garages up to 220 square feet, or 440 square feet with an ADU, are exempt from FAR.
2. No single floor shall be greater than 600 square feet.
3. Maximum height is 25 feet under BMC 20.08.020, height definition No. 1 and 15 feet under definition No. 2.

Section 10. BMC 20.28.070(C) regarding Small House Bulk and Mass is amended as follows:

C. Bulk and Massing.

1. Maximum floor area ratio (FAR): 0.35, or 0.5 with an accessory dwelling unit (ADU) pursuant to BMC 20.10.036. Attached garages are included in FAR. Detached garages up to 220 square feet, or 440 square feet with an ADU, are exempt from FAR.
2. No single floor shall be greater than 800 square feet.
3. Maximum height is 25 feet under BMC 20.08.020, definition No. 1 and 15 feet under definition No. 2.

Section 11. BMC 20.28.090 Carriage House is REPEALED in its entirety.

Section 12. BMC 20.28.100 Detached ADU is REPEALED in its entirety.

Section 13. BMC 20.30.030(A) concerning Permitted Uses for Residential Single Development, is amended as follows:

- A. Uses Permitted Outright. No building or land shall be used within an area designated residential single, except as follows:
1. through 5. [NO CHANGES]
 6. Attached accessory dwelling unit (consistent with procedures and requirements outlined in BMC 20.10.~~035~~.036).

7. Detached accessory dwelling units ~~existing prior to January 1, 1995~~ (consistent with procedures and requirements outlined in BMC 20.10.035.036).

8. through 10. [NO CHANGES]

Section 14. BMC 20.30.040(A) regarding Standard Development Regulations for Residential Single Development, is amended as follows:

A. Applicability.

1. The regulations of this section shall apply to the development of any main building in an area designated RS to be occupied by a principal use designated in BMC 20.30.030, unless the optional regulations of BMC 20.30.050 are utilized.
2. The regulations of this section also apply to the development of a single-family home where permitted in other designations (residential multi, commercial, institutional or planned).
3. The regulations of this section shall apply to the development of any permitted conditional use in an area designated RS unless other applicable regulations appear within Chapter 20.16 BMC.
4. Except where other applicable regulations appear within BMC 20.10.036 or 20.30.100, the regulations of this section shall apply to the development of any accessory building in an area designated RS.

Section 15. BMC 20.30.100(B) regarding Regulations for Accessory Buildings and Uses for Residential Single Development, is amended as follows:

B. Regulations.

1. The regulations of BMC 20.30.040 shall apply to all accessory buildings except that:
 - a. Accessory buildings shall not exceed one story in height, or 12 feet under either height definition.
 - b. Accessory buildings may be located in a rear yard and in the rear 22 feet of an interior side yard; ~~however, a garage, the entrance of which faces the rear lot line, shall not be located within 10 feet from the rear lot line.~~
 - c. An accessory building that consists partly or entirely of a detached accessory dwelling unit may be allowed pursuant to BMC 20.10.036.
2. Buildings accessory to single-family homes shall not be used for human habitation other than the resident family, nor used to conduct any business, unless specifically permitted.

3. Accessory buildings shall not be constructed prior to the commencement of the construction of the main building.

4. An accessory building may not exceed 800 square feet in area, provided:

a. ~~§~~The hearing examiner may approve, by conditional use permit, larger buildings after proper review and consideration; or

b. If the accessory building consists partly of a detached ADU, the standards in BMC 20.10.036 shall apply.

Section 16. BMC 20.32.030(A) regarding Permitted Uses in Residential Multi Development, is amended as follows:

A. Uses Permitted Outright. No building or land shall be used within areas designated RM except as enumerated below corresponding to the applicable use qualifier:

Use Qualifier	Permitted Use
Duplex	1. through 6. [NO CHANGES]
	7. Attached accessory dwelling units (consistent with procedures and requirements outlined in BMC 20.10. 035.036).
	8. Detached accessory dwelling units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10. 035.036).
	9. through 11. [NO CHANGES]
Multiple	1. All those permitted within the duplex use qualifier.
	2. Multifamily dwelling units (apartments)
	3. Attached accessory dwelling units (consistent with procedures and requirements outlined in BMC 20.10.035).
	4. Unpermitted detached accessory dwelling units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10.035).
	5.3. Billboards, subject to the provisions of this chapter, and only within the billboard overlay zones delineated by BMC 20.08.020, Figure 15.
Planned	1. [NO CHANGES]

Section 17. BMC 20.32.110(B) regarding Regulations for Accessory Buildings and Uses for Residential Multi Development, is amended as follows:

B. Regulations.

1. The regulations of BMC 20.32.040 shall apply to all accessory buildings except that accessory buildings may be located in a rear yard and in the rear 22 feet of an interior side yard. ~~However, a garage, the entrance of which faces the rear lot line, shall not be located within 10 feet from the rear lot line.~~
2. Accessory buildings shall not be constructed prior to the commencement of the construction of the main building.

Section 18. BMC 20.34.030(A) regarding Permitted Uses in Commercial Development having a "Neighborhood" Use Qualifier, is amended as follows:

A. Uses Permitted Outright. No building or land shall be used within an area designated with a commercial general use type except as permitted below corresponding to the use qualifier designated for such property.

The following uses shall be permitted outright corresponding to the designated use qualifier.

Use Qualifier		Permitted Use
Neighborhood	1. through 17.	[NO CHANGES]
	18.	Attached accessory dwelling unit (consistent with procedures and requirements outlined in BMC 20.10- 035.036)
	19.	Detached accessory dwelling unit existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10- 035.036)
	20. through 21.	[NO CHANGES]

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Section 19. BMC Chapter 20.37, Article II, Table 20.37.120, concerning Permitted Uses in the Samish Way Urban Village, is amended as follows:

Table 20.37.120 – Permitted Uses					
P = Permitted # = Permitted with limitations C = Conditional Use N = Not allowed					
Land Use Classification	Area				
	Commercial Core	Commercial Approach	Commercial Transition 1 and 2	Residential Transition 1	Residential Transition 2
1. through 24. [NO CHANGES]					
25. Attached accessory dwelling units (consistent with procedures and requirements outlined in BMC 20.10. 035.036)	P	P	P	P	P
26. Detached accessory dwelling units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10. 035.036)	P	P	P	P	P
27. Chapter 20.28 BMC, Infill Housing					
a. Smaller House	P(5)	P(5)	P(5)	P(5)	N
b. Small House	P(5)	P(5)	P(5)	P(5)	P(5)
c. Cottage	P(5)	P(5)	P(5)	P(5)	P(5)
d. Carriage House	P(5)	P(5)	P(5)	P(5)	P(5)
e. Detached ADU	P(5)	P(5)	P(5)	P(5)	N
f.d. Duplex/Triplex	P(5)	P(5)	P(5)	P(5)	N
g.e. Shared Court	P(5)	P(5)	P(5)	P(5)	P(5)
h.f. Garden Court	P(5)	P(5)	P(5)	P(5)	P(5)
i.g. Townhouse	P(5)	P(5)	P(5)	P(5)	N
28. through 42. [NO CHANGES]					

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Section 20. BMC Chapter 20.37, Article III, Table 20.37.220, concerning Permitted Uses in the Fountain District Urban Village, is amended as follows:

Table 20.37.220 – Permitted Uses				
P = Permitted	# = Permitted with limitations	C = Conditional Use	N = Not allowed	
Land Use Classification	Area			
	Commercial Core	Commercial Transition	Residential Transition 1	Residential Transition 2
1. through 27. [NO CHANGES]				
28. Attached accessory dwelling units (consistent with procedures and requirements outlined in BMC 20.10. 035.036)	N	P	P	P
29. Detached accessory dwelling units -existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10. 035.036)	P	P	P	P
30. Chapter 20.28 BMC, Infill Housing.				
a. Smaller House	P(5)	P(5)	P(5)	N
b. Small House	P(5)	P(5)	P(5)	N
c. Cottage	P(5)	P(5)	P(5)	N
d. Carriage House	P(5)	P(5)	P(5)	P(5)
e. Detached ADU	P(5)	P(5)	P(5)	P(5)
f.d. Duplex	P(5)	P(5)	P(5)	N
g.e. Triplex	P(5)	P(5)	N	N
h.f. Shared Court	P(5)	P(5)	N	N
i.g. Garden Court	P(5)	P(5)	N	N
j.h. Townhouse	P(5)	P(5)	N	N
31. through 46. [NO CHANGES]				

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Section 21. BMC Chapter 20.37, Article IV, Table 20.37.320 - Permitted Uses, A. Residential, concerning the Fairhaven Urban Village, is amended as follows:

Table 20.37.320 – Permitted Uses					P = Permitted	(#) = See Notes	C = Conditional Use	N = Not allowed	
LAND USE CLASSIFICATION	AREA								
	CC (2)	RT-1 and RT-2	RT-3	RT-4	I-1 (1)	I-2 (1)	I-3 (1)	P-1 and P-3	P-2
A. Residential									
1. Attached Accessory Dwelling Unit per BMC 20.10. 035.036	P	P	P	P	N	N	N	N	N
2. Detached Accessory Dwelling Unit existing prior to 1/1/1995 , per BMC 20.10. 035.036	P	P	P	P	N	N	N	N	N
3. through 8. [NO CHANGES]									
9. Infill Housing per Chapter 20.28 BMC	P	P	P(4) <u>N</u>	P	N	N	N	N	N
10. through 14. [NO CHANGES]									
NOTES:									
(1) Through (3) [NO CHANGES]									
(4) — Infill housing uses allowed in RT-3 are limited to carriage house and detached accessory dwelling unit, per Chapter 20.28 BMC.									
(5) (4) These uses, when established by a private (not public) entity, require a conditional use permit.									
(6) (5) Regulated by BMC 10.24.120.									
(7) (6) A restaurant may include licensed provision of beer and wine for consumption on the premises when accessory to such food service. Sales of beverages having a higher alcohol content than beer and wine require a conditional use permit.									
(8) (7) The “work” component in live/work is limited to those permitted and conditional uses listed under the applicable zoning subarea in Table 20.37.320.									
(9) (8) When entirely enclosed within a structure.									
(10) (9) Including construction businesses (such as construction offices and storage yards).									
(11) (10) May only be located on those properties where they currently exist south of Larrabee									

Table 20.37.320 – Permitted Uses

P = Permitted

(#)= See
NotesC = Conditional
UseN = Not
allowed

LAND USE CLASSIFICATION	AREA								
	CC (2)	RT-1 and RT-2	RT-3	RT-4	I-1 (1)	I-2 (1)	I-3 (1)	P-1 and P-3	P-2
<p>Avenue as of August 28, 2012.</p> <p>(12)<u>(11)</u> Institutions of higher education and art schools are permitted. All other schools are conditional, per Chapter 20.16 BMC.</p> <p>(13)<u>(12)</u> The manufacture, compounding, processing, refining, and treatment of significant quantities of the following materials, products or operations is prohibited. For the purpose of this section, “significant quantities” consist of a barrel or more at a single time. Acetylene, distillation of alcohol, asphalt and tar, brick, tile, terra cotta, concrete, cement, lime, gypsum, and plaster of Paris, fats, oils and soap, fertilizer, garbage, offal, bones, and the reduction of dead animals, forging or smelting of metal, lampblack, stove and shoe polish, lumber and planing mills, oilcloth and linoleum, paint, shellac, turpentine, lacquer and varnish, paper and pulp, petroleum processing and storage, any explosive or highly inflammable material, slaughtering and processing of meat or fish products, tannery and curing of raw hides, chemicals such as acid, ammonia, bleach, chlorine, dye stuff, glue, gelatin and size, automotive wrecking, or junk yards.</p> <p>(14)<u>(13)</u> Excluding the storage and handling of explosives, ammonia, chlorine, and any other similarly dangerous or toxic substances.</p> <p>(15)<u>(14)</u> Conditional except for those uses permitted in subsection (D)(9) of this table.</p> <p>(16)<u>(15)</u> Wireless communication facilities may only be allowed as an accessory use or conditional use under the provisions of Chapter 20.13 BMC pertaining to the location of these facilities in public zones.</p>									

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Section 22. BMC Chapter 20.37, Article VI, Table 20.37.520 - Permitted Uses, A. Residential, concerning the Downtown District Urban Village, is amended as follows:

Table 20.37.520 – Permitted Uses

P = Permitted C = Conditional Use N = Not allowed (#) = See Notes				
When multiple symbols and notes appear in a box such as P(2) or (4), C, they are interpreted as (P) Permitted (2) when located in a main building(s) on a site existing as of September 23, 2014 OR (4) on corner lots; (C) conditional elsewhere.				
LAND USE CLASSIFICATION	AREA			
	CC (1) CT (1)	RT-1	RT-2	IT
A. Residential				
1. Attached Accessory Dwelling Unit per BMC 20.10. 035.036	P	P	P	N
2. Detached Accessory Dwelling Unit existing prior to 1/1/1995, per BMC 20.10. 035.036	P	P	P	N
3. through 12. [NO CHANGES]				

Section 23. BMC 20.38.050(B)(2) concerning Range of Uses Possible in Planned Residential Development, is amended as follows:

2. Range of Uses Possible. Any of the following uses may be permitted in a planned proposal within a residential general use type designation; provided, that any of such uses shall not be permitted where prohibited within the applicable neighborhood plan. Certain uses may also be excluded from a particular planned residential area if such use(s) are found by the planning director to be incompatible with the surrounding area or unsuitable to the particular site. The final decision shall set forth the uses permitted for the subject property.
 - a. through i. [NO CHANGES]
 - j. Attached accessory dwelling unit (consistent with procedures and requirements outlined in BMC 20.10.~~035.036~~).
 - k. Detached accessory dwelling unit ~~existing prior to January 1, 1995~~ (consistent with procedures and requirements outlined in BMC 20.10.~~035.036~~).
 - l. through o. [NO CHANGES]

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Section 24. The Council agrees with, and hereby adopts the **February 15, 2018** Findings of Fact, Conclusions and Recommendations of the Planning Commission, attached as **Exhibit A**.

PASSED by the Council this _____ day of _____, 2018

Council President

APPROVED by me this _____ day of _____, 2018

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: _____