ORDINANCE NO.2018-05-009

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the Bellingham Planning Commission held two work sessions in 2015 and three in 2017, on staff's preliminary findings and recommendations for amendments, with appropriate public notice provided; and
WHEREAS, the Bellingham Planning Commission held a public hearing on January 25, 2018 on the amendments, with appropriate public notice provided, and held two work sessions following; and

WHEREAS, the Planning Commission considered the staff report and comments received, and recommended approval of the proposed ordinance with some changes to the proposal; and

WHEREAS, the Planning Commission adopted Findings of Fact, Conclusions and Recommendations to the City Council on February 15, 2018; and

WHEREAS, on April 3, 2018, the City of Bellingham as lead agency under the procedures of the State Environmental Policy Act issued a Final Determination of Non-Significance; and

WHEREAS, the Bellingham City Council held a public hearing on April 9, 2018 on the amendments, with appropriate public notice provided; and

WHEREAS, the City Council finds that the amendments are appropriate and consistent with the State Growth Management Act and the Bellingham Comprehensive Plan;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

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

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

1. Single-family dwelling unit with less than 5,500 square feet of total floor area.
2. Publicly owned parks, trails and playgrounds.
3. Private recreation facilities and/or common open space (when approved by council as part of a subdivision).
4. Mixed use (where such a use is specifically listed in a neighborhood land use plan, which has been designated with a “mixed” use qualifier).
5. Public utilities (when located within a public right-of-way).
6. Attached accessory dwelling unit approved prior to January 8, 2001 (consistent with procedures and requirements outlined in BMC 20.10.036).
7. Attached and detached accessory dwelling units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10.036).
8. Confidential shelters subject to the provisions of BMC 20.10.047.
9. Wireless communication facilities, subject to the provisions of Chapter 20.13 BMC.
10. Co-housing developments subject to the requirements of BMC 20.10.048.
10.11. No residential single lot or parcel may be partially or entirely cleared of vegetation 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:

<table>
<thead>
<tr>
<th>Area</th>
<th>Zoning Use Qualifier</th>
<th>Density</th>
<th>Special Conditions</th>
<th>Prerequisite Considerations</th>
<th>Special Regulations</th>
</tr>
</thead>
</table>
| 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 20.10.036,036.
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,
   b. BMC 20.28.070, Small house.
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.

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
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ADU Ordinance (5)
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 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.
6. ADU Size.
   a. Attached and Detached ADUs.
      1) An ADU shall not exceed 66% of the floor area of the primary dwelling (excluding any related garage area attached to the primary dwelling), or 800 square feet, whichever is less, and shall contain a minimum square footage as required by the building code.
      2) No more than two bedrooms may be located within an ADU.
   b. Attached ADUs. The Director may allow increased size for an A-ADU in order to efficiently use all, or a portion of, the floor area on one floor of an existing dwelling unit constructed as of January 1, 1995, provided the ADU does not exceed 800 square feet.
   c. Detached ADUs. The floor area for D-ADUs shall be calculated using the "general" definition of floor area in BMC 20.08.020, and include ancillary space (garage, workshop, garden shed, etc.) within. However, an accessory building that includes a D-ADU and ancillary space may exceed 800 square feet when approved by the hearing examiner by conditional use permit pursuant to BMC 20.16, provided the floor area of the D-ADU does not exceed that specified in subsection (a)(1) of this section.

7. Minimum Yards for D-ADUs.
   a. Front and side-flanking yards shall comply with the zoning code provisions for the primary residence except that when the vehicular entrance to an attached garage or carport faces a street, the entrance shall be set back a minimum of 25-feet from the front property line, and 10-feet from a side flanking property line.
   b. A five-foot (5') side and rear yard setback shall be provided, measured from the property line to the foundation of the structure, except as follows:
      1) When abutting an alley, there is no required side or rear yard setback from the alley.
      2) A D-ADU may be located in a rear yard and in the rear 22 feet of an interior side yard, provided:
         a) If such an accessory building is to be located less than five feet from any common property line, a joint agreement with the adjoining property owner(s) must be executed and recorded with the Whatcom County Auditor's Office and thereafter filed with the city, or
         b) If site characteristics warrant such that, in the opinion of the director, impacts to abutting property would be negligible due to, but not limited to, one or more of the following:
i. The existing use and development pattern on abutting property.

ii. Minimal disruption of solar access to outdoor recreation or garden space on abutting property compared to what may otherwise occur with the application of standard development regulations.

iii. Site characteristics such as building a D-ADU downslope from abutting property.

iv. Conversion of a detached accessory building existing as of the date of adoption of this Ordinance to a D-ADU.

v. Any minor modification from standard development regulations requested pursuant to this subsection (b)(2)(b) shall be processed as a request for minor modification pursuant to subsection (B)(3) of this section.

c. A minimum six feet (6') of separation is required between the primary residence and a D-ADU.

8. Building Height for D-ADUs. A D-ADU shall be no higher than 20 feet under BMC 20.08.020, definition No. 1.

9. Parking. Parking required for an ADU is in addition to that required for the primary dwelling unit.

a. One on-site parking stall is required for an ADU, except as follows:

1. No parking is required when adding a street curb cut for private on-site parking would eliminate public on-street parking.

2. The director may reduce parking requirements based on the applicant’s demonstration of site-specific factors that justify a lower standard.

   Any request for a parking waiver shall be processed as a request for minor modification pursuant to subsection (B)(3) of this section.

b. Parking stalls shall be at least 9 feet by 18 feet.

c. Parking shall not be located in required front or side street setbacks. Parking in the front portion of the lot shall be discouraged.

d. If the lot abuts an alley or private access easement, parking shall be accessed from said facility except when the director determines that such access is impractical or environmentally constrained. Any request to forgo alley access shall be processed as a request for minor modification pursuant to subsection (B)(3) of this section.

e. Parking accessed from a street or lane shall be limited to one driveway per frontage 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
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:

<table>
<thead>
<tr>
<th>USE</th>
<th>PARKING SPACE REQUIREMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Residential</td>
<td>[NO CHANGES]</td>
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<tr>
<td>i. through v.</td>
<td></td>
</tr>
<tr>
<td>vi. Accessory Dwelling Units</td>
<td>One for each bedroom, minimum of one for each ADU. These spaces must be located on site.</td>
</tr>
<tr>
<td>vii-vii. Senior Citizen Housing</td>
<td>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:</td>
</tr>
<tr>
<td></td>
<td>a. A parking study supplied by the proponent showing the actual anticipated demand.</td>
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<td>b. Minimum age requirement to reside in the residential facility.</td>
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<td></td>
<td>c. Amount of services provided at the residential facility, including transportation.</td>
</tr>
<tr>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>viii-viii. Live/Work Unit</td>
<td>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.</td>
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</table>
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:

<table>
<thead>
<tr>
<th>Use Qualifier</th>
<th>Permitted Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duplex</td>
<td>1. through 6. [NO CHANGES]</td>
</tr>
<tr>
<td></td>
<td>7. Attached accessory dwelling units (consistent with procedures and requirements outlined in BMC 20.10.035.036).</td>
</tr>
<tr>
<td></td>
<td>8. Detached accessory dwelling units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10.035.036).</td>
</tr>
<tr>
<td>Multiple</td>
<td>1. All those permitted within the duplex use qualifier.</td>
</tr>
<tr>
<td></td>
<td>2. Multifamily dwelling units (apartments)</td>
</tr>
<tr>
<td></td>
<td>3. Attached accessory dwelling units (consistent with procedures and requirements outlined in BMC 20.10.035).</td>
</tr>
<tr>
<td></td>
<td>4. Unpermitted detached accessory dwelling units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10.035).</td>
</tr>
<tr>
<td></td>
<td>5. Billboards, subject to the provisions of this chapter, and only within the billboard overlay zones delineated by BMC 20.08.020, Figure 15.</td>
</tr>
<tr>
<td>Planned</td>
<td>1. [NO CHANGES]</td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Use Qualifier</th>
<th>Permitted Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighborhood</td>
<td>1. through 17. [NO CHANGES]</td>
</tr>
<tr>
<td></td>
<td>18. Attached accessory dwelling unit (consistent with procedures and requirements outlined in BMC 20.10.035.036)</td>
</tr>
<tr>
<td></td>
<td>19. Detached accessory dwelling unit existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10.035.036)</td>
</tr>
<tr>
<td></td>
<td>20. through 21. [NO CHANGES]</td>
</tr>
</tbody>
</table>

ADU Ordinance (18)
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

<table>
<thead>
<tr>
<th>Land Use Classification</th>
<th>Commercial Core</th>
<th>Commercial Approach</th>
<th>Commercial Transition 1 and 2</th>
<th>Residential Transition 1</th>
<th>Residential Transition 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. through 24. [NO CHANGES]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25. Attached accessory dwelling units (consistent with procedures and requirements outlined in BMC 20.10.035.036)</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>26. Detached accessory dwelling units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10.035.036)</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>27. Chapter 20.28 BMC, Infill Housing</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Smaller House</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
</tr>
<tr>
<td>b. Small House</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
</tr>
<tr>
<td>c. Cottage</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
</tr>
<tr>
<td>d. Carriage House</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
</tr>
<tr>
<td>e. Detached-ADU</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
</tr>
<tr>
<td>f. Duplex/Triplex</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
</tr>
<tr>
<td>g. Shared Court</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
</tr>
<tr>
<td>h. Garden Court</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
</tr>
<tr>
<td>i. Townhouse</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
</tr>
<tr>
<td>28. through 42. [NO CHANGES]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**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>
<thead>
<tr>
<th>Land Use Classification</th>
<th>Commercial Core</th>
<th>Commercial Transition</th>
<th>Residential Transition 1</th>
<th>Residential Transition 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. through 27. [NO CHANGES]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28. Attached accessory dwelling units (consistent with procedures and requirements outlined in BMC 20.10.035.036)</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>29. Detached accessory dwelling units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in BMC 20.10.035.036)</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>30. Chapter 20.28 BMC, Infill Housing.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Smaller House</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
</tr>
<tr>
<td>b. Small House</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
</tr>
<tr>
<td>c. Cottage</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
</tr>
<tr>
<td>d. Carriage House</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
</tr>
<tr>
<td>e. Detached ADU</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
</tr>
<tr>
<td>f. Duplex</td>
<td>P(S)</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
</tr>
<tr>
<td>g. Triplex</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>h. Shared Court</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>i. Garden Court</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>j. Townhouse</td>
<td>P(S)</td>
<td>P(S)</td>
<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>

31. through 46. [NO CHANGES]
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>
<thead>
<tr>
<th>LAND USE CLASSIFICATION</th>
<th>AREA</th>
<th>P = Permitted (#) = See Notes</th>
<th>C = Conditional Use</th>
<th>N = Not allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CC (2)</td>
<td>RT-1</td>
<td>RT-2</td>
<td>RT-3</td>
</tr>
<tr>
<td>A. Residential</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Attached Accessory Dwelling Unit per BMC 20.10.035.036</td>
<td>P P P P N N N N N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Detached Accessory Dwelling Unit existing prior to 1/1/1995, per BMC 20.10.035.036</td>
<td>P P P P N N N N N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. through 8. [NO CHANGES]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Infill Housing per Chapter 20.28 BMC</td>
<td>P P P(4) P N N N N N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. through 14. [NO CHANGES]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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) These uses, when established by a private (not public) entity, require a conditional use permit.

(6) Regulated by BMC 10.24.120.

(7) 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) 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) When entirely enclosed within a structure.

(10) Including construction businesses (such as construction offices and storage yards).

(11) May only be located on those properties where they currently exist south of Larrabee.
Table 20.37.320 – Permitted Uses

<table>
<thead>
<tr>
<th>AREA</th>
<th>CC (2)</th>
<th>RT-1 and RT-2</th>
<th>RT-3</th>
<th>RT-4</th>
<th>I-1 (1)</th>
<th>I-2 (1)</th>
<th>I-3 (1)</th>
<th>P-1 and P-3</th>
<th>P-2</th>
</tr>
</thead>
</table>

**LAND USE CLASSIFICATION**

RT-1 1-1 1-2 1-3 P-1 (2) and RT-3 RT-4 (1) (1) (1) and P-2

Avenue as of August 28, 2012.

(11) Institutions of higher education and art schools are permitted. All other schools are conditional, per Chapter 20.16 BMC.

(12) 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, lamplblack, 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.

(13) Excluding the storage and handling of explosives, ammonia, chlorine, and any other similarly dangerous or toxic substances.

(14) Conditional except for those uses permitted in subsection (D)(9) of this table.

(15) 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.
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

<table>
<thead>
<tr>
<th>LAND USE CLASSIFICATION</th>
<th>AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CC (1)</td>
</tr>
<tr>
<td>A. Residential</td>
<td></td>
</tr>
<tr>
<td>1. Attached Accessory Dwelling Unit per BMC 20.10.035.036</td>
<td>P</td>
</tr>
<tr>
<td>2. Detached Accessory Dwelling Unit existing prior to 3/1/1995, per BMC 20.10.035.036</td>
<td>P</td>
</tr>
<tr>
<td>3. through 12. [NO CHANGES]</td>
<td></td>
</tr>
</tbody>
</table>

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]
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 21st day of May, 2018

Roxanne Murphy, Council President

APPROVED by me this 5th day of June, 2018

Kelli Linville, Mayor

ATTEST: Brian Henshaw, Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: May 25, 2018
SUMMARY
Following several work sessions, a public hearing and deliberations, the Bellingham Planning Commission has determined that the proposed amendments to Bellingham Municipal Code provisions regarding accessory dwelling units (ADUs) are supported by, and will help implement, the goals and policies of the 2016 Bellingham Comprehensive Plan.

I. FINDINGS OF FACT

The proposal includes a review of the City's municipal code provisions related to accessory dwelling units.

Background Information/Procedural History

History of the City's current ADU regulations –

- State Law RCW 43.63A.215 and RCW 36.70A.400, adopted as part of the 1993 Washington Housing Policy Act, required Washington cities with populations over 20,000 to adopt regulations to allow accessory dwelling units.
- In 1995, the City approved Ordinance No. 10643 which allowed attached ADUs citywide and included a provision that required the City Council to review the ordinance 1) two years following the effective date of the ordinance, and 2) after the 20th ADU permit is issued in any single neighborhood, with intent to determine how the ordinance was working and to determine what, if any, of the regulations needed to be modified or eliminated.
- In 1997, after two years, the City Council reviewed the ADU ordinance. At that time, 14 ADU permits had been issued and six were completed. Council elected to make no changes to the ordinance at that time.
- In 2001, Ordinance No. 2001-01-001 added a new chapter (16.80 - Lake Whatcom Reservoir Regulatory Chapter) to the BMC, and included provisions restricting ADUs within the Lake Whatcom Watershed.
- In 2009, Ordinance No. 2009-08-047 added a new chapter (20.28 - Infill Housing) to the BMC, and included provisions allowing carriage units and detached ADUs generally in areas that had been or would be annexed to the city. Carriage units and detached ADUs were not allowed in most single family zones or within the Lake Whatcom Watershed.
- In 2015, the City launched the review and update to the ADU ordinance after the 20th ADU permit was issued in the South Hill Neighborhood. Focus and technical groups were used to inform the initial review of the ADU rules. The effort was tabled while the required update to the comprehensive plan was completed.
- In 2016, the 2016 Bellingham Comprehensive Plan was adopted, including updated goal and policy guidance with respect to growth management, infill development, housing choice and affordability, and ADUs.
In 2017, the Happy Valley Neighborhood submitted a proposal to amend the City's ADU regulations to allow a limited number of detached ADUs in their neighborhood.

In 2017, the ADU ordinance update process was restarted. The Planning Commission held a series of work sessions throughout the fall and a public hearing on January 25th, 2018. Additional work sessions were held on February 1st and February 15th.

On January 2, 2018, a non-project SEPA Determination of Non-Significance was issued. The SEPA review process evaluated the potential impacts from the Planning Commission's preliminary recommended changes to current ADU regulations (including allowing detached ADUs in all single-family zoned areas).

On February 15, 2018 the Planning Commission adopted recommendations for changes to the existing ADU regulations as shown in the ordinance (Attachment B) to the staff report.

Proposal

Staff’s 2017 proposal originally included a series of relatively minor changes to the City’s ADU regulations. These changes were intended to improve the permitting process, as well as consolidate and clarify the regulations. Since no major changes were proposed, the intent was to make these improvements in a timely fashion and support Happy Valley’s pilot proposal to get some detached ADUs built relatively soon. Our original scope of the project anticipated that major changes to ADU regulations would be evaluated during the update to the “Infill Toolkit” section of the BMC.

The following is a partial list of changes to current ADU regulations originally proposed by staff. See Attachment C to the staff report for a complete list.

1. Consolidating and standardizing existing ADU code provisions.
2. Allowing minor modifications to code provisions to increase flexibility.
3. No changes to where detached ADUs are currently allowed.
4. Removing the “cap” on the number of attached ADUs (20) that would be allowed in each neighborhood prior to reviewing the ordinance.
5. Reducing the minimum lot size for detached ADUs from over 10,000 sq.ft. to 5,000 sq.ft.
6. Reducing the maximum allowed height of detached ADUs from 25 feet to 20 feet.
7. Increasing the maximum allowed size of an ADU from 40% to 50% of the sq.ft. of the main residence, not to exceed 800 sq.ft.
8. Revising required building setback requirements for detached ADUs.
9. Limiting the number of bedrooms in a detached ADU to two.
10. Revising on-site parking requirement from one stall per bedroom to one stall per attached ADU.

Along with staff's proposed changes, the Happy Valley Neighborhood proposed a pilot program to allow a limited number of detached ADUs in their neighborhood. The specifics of their proposal are contained in Attachment D to the staff report.

The Planning Commission, in their initial discussions at three work sessions in the fall of 2017, directed staff to include a number of additional changes to the current ADU regulations. A draft ordinance was prepared that includes the changes proposed by staff, the HVNA and the Planning Commission. See the Planning Commission’s recommendations section for a list of the additional changes proposed by the Commission.

The draft ordinance was the subject of a public hearing held on January 25, 2018.
Issues and Opportunities

A number of issues have been raised and discussed by members of the community and the Planning Commission. Some of the issues include, impacts on neighborhood character, parking, design, cost to construct ADUs, illegal units and homeowner occupancy. See Attachment E to the staff report, Opportunities/Concerns matrix, where staff has responded to many of the issues raised during the Commission's review process.

Some of the potential benefits of allowing ADUs identified during the process include:

- **Housing choice** – ADUs can provide housing opportunities for those who may not be able to otherwise afford to live in an established single family neighborhood. These areas have convenient access to services, employment, transportation options, parks, trails and neighborhood schools. These units can also provide housing for friends or family members and those in need of caretaking. Statistics from Portland, Oregon show that 30% of current homeowners with ADUs charge no rent to their tenants.

- **Appropriate forms of housing for shifting demographics in Bellingham.**

- **Help meet Growth Management Act goals to reduce impacts of sprawl.**

- **Financial benefit to homeowner** – ADUs can provide income for the homeowner, allowing folks the opportunity to stay in their home and age in place. ADUs add value to the property for resale purposes.

Consistency with the Bellingham Comprehensive Plan

Development regulations, like those governing the location and construction of ADUs, are intended to implement the goals and policies of the Bellingham Comprehensive Plan. The goals and policies provide guidance and policy direction in the establishment of development regulations. The following are some examples from the 2016 comprehensive plan relevant to the discussion regarding ADUs.

**Land Use Chapter**

**Policy LU-1** The Single-Family Residential designation permits a range of housing densities to achieve the City's housing diversity and affordability goals. In undeveloped or infill areas, new housing may include single-family detached, single-family attached, townhouses, cottage housing, accessory dwelling units, clustered housing and other small-scale housing forms. Accessory, public and semipublic uses are also allowed.

**Policy LU-4** Protect the unique character and qualities of existing neighborhoods, while identifying opportunities for improved livability, safety, and housing affordability and diversity.

**Policy LU-5** Foster neighborhoods with a balanced mix of housing prices that are compatible with the wages and incomes in the community.
Policy LU-10 To achieve a healthy mix of housing that is affordable to a wide range of incomes, implement and seek new, innovative tools, including, but not limited to:

- Density bonuses;
- Inclusionary zoning;
- Cluster subdivisions that preserve open space, retain natural features and provide other public benefits;
- The Infill Housing Toolkit, which includes small lot homes, townhomes and other housing forms;
- Accessory dwelling units;
- Adaptive reuse of existing buildings;
- Purchase and transfer of development rights (TDR) programs; and
- Public-private partnerships for shared parking facilities, wetland mitigation, and regional stormwater management.

Note: The Planning Commission finds and concludes that the ADU code amendments proposed by staff, the Planning Commission and the Happy Valley Neighborhood Association are consistent with the Land Use chapter goals and policies referenced.

### Housing Chapter

**GOAL H-1** Ensure that Bellingham has a sufficient quantity and variety of housing types and densities to accommodate projected growth and promote other community goals.

**Policy H-9** Update the City's ADU ordinance with priorities on:

- Evaluating and inventorying ADUs in the City;
- Identifying appropriate areas for detached ADUs;
- Improving permitting and enforcement; and
- Requiring owner occupancy in single-family zones.

**Policy H-10** Permit owner-occupied attached ADUs in single-family and multi-family zones.

**GOAL H-2** Foster housing that is safe, healthy, livable, and affordable for all income levels in all neighborhoods.

**Policy H-13** Consider the impacts on citywide housing capacity, affordability and diversity when making land use policy decisions and code amendments.

**Policy H-15** Support fair and equal access to housing for all persons, regardless of race, religion, ethnic origin, age, household composition or size, disability, marital status, sexual orientation or economic circumstances.

**Policy H-16** Increase the supply of affordable rental and ownership housing that is context sensitive throughout the City, especially in areas with good access to transit, employment, education and services (see Land Use Chapter for definition of "context sensitive").

**Policy H-17** Consider the impacts of transportation costs on housing affordability and accessibility of services and other opportunities when planning for housing.
Policy H-18  Continue evaluating the recommendations of the City's Community Solutions Workgroup on Affordable Housing, including:

- Detached ADUs, small lot and cottage housing in single-family zones;
- Impact fee reductions for ADUs;
- Reduced parking requirements; and
- Other code changes and incentives that allow and encourage well-designed infill development.

Policy H-19  Continue providing incentives to support housing affordability (e.g. density bonuses, expedited permitting, multi-family tax exemption program and fee reductions) and consider including workforce housing as part of certain incentives programs.

Policy H-31  Promote high-quality design that is compatible with the overall style and character of established neighborhoods.

Policy H-34  Encourage the rehabilitation, relocation and reuse, rather than demolition, of existing housing.

Policy H-44  Periodically review and update the City's residential zoning regulations and design standards to promote quality development with timely and predictable outcomes.

Note: The Planning Commission finds and concludes that the ADU code amendments proposed by staff, the Planning Commission and the Happy Valley Neighborhood Association are consistent with the Housing chapter goals and policies referenced.

Community Design Chapter

Goal CD-6  Encourage contextually-appropriate infill development projects and property renovations.

Policy CD-7  Ensure that new development is of a type, scale, orientation, and design that maintains or improves the character, aesthetics, and livability of neighborhoods. While compatibility is more of an issue in established neighborhoods, new development needs to take into account the context of the area and should result in an improvement to the surrounding neighborhood.

Policy CD-24  Provide adequate resources to ensure that conditions of approval placed on development projects are monitored and enforced.

Policy CD-32  Provide development standards that are adaptable to a variety of conditions to allow for diversity in building styles within districts and neighborhoods.

Policy CD-33  Encourage the construction of small-scale housing types that fit the context of single-family neighborhoods, such as accessory dwelling units, cottage housing, townhomes, zero lot line homes, and small lot housing.

Policy CD-38  Promote the maintenance and improvement of the existing housing stock.
Note: The Planning Commission finds and concludes that the ADU code amendments proposed by staff, the Planning Commission and the Happy Valley Neighborhood Association are consistent with the Community Design chapter goals and policies referenced.

Public Comment

Notice of the Planning Commission hearing was mailed to the Mayor’s Neighborhood Advisory Commission, registered neighborhood associations, and a list of groups and individuals who expressed interest in the ADU ordinance review process. The notice was also published in the Bellingham Herald.

Extensive comments were submitted throughout the Commission’s review process. Public comment was taken at four work sessions (two in 2015 and two in 2017). Approximately 60 people spoke at the January 25 public hearing. The Commission also received a significant number of letters and emails regarding this topic. Staff has responded to many of the issues in the Opportunities/Concerns matrix (see Attachment E to the staff report).

State Environmental Policy Act (SEPA) Determination

A non-project SEPA Determination of Non-Significance was issued on January 2, 2018. The SEPA review process evaluated the potential impacts from the Planning Commission’s preliminary recommended changes to current ADU regulations (including allowing detached ADUs in all single-family zoned areas). All public comments received concerning the proposed amendments prior to issuance of the determination of nonsignificance were used to inform the SEPA analysis and determination.

Staff received a number of letters and emails in response to the SEPA determination (see comments submitted during the comment period for the SEPA determination of non-significance between 1/2/2018 and 1/18/2018 in Attachment H to the staff report). All comments received during the comment period will be used to inform the final determination. Many of the issues raised during the comment period were addressed in the Opportunities/Concerns matrix (Attachment E to the staff report). Staff and the SEPA official are continuing review of the public comments received in response to the determination of non-significance. The SEPA Official will issue a final determination prior to a decision on the proposed amendments by the City Council.

II. CONCLUSIONS

The Planning Commission concludes that the proposed code amendments are consistent with, and will help implement, the land use, housing and community design goals and policies in the 2016 comprehensive plan.

The Commission concludes that the proposed code amendments will help meet Growth Management Act goals to encourage growth in urban areas, reduce the impacts of sprawl and promote a variety of housing types.

Noting that attached ADUs are currently allowed in all single family zoned areas of the city, the Commission concludes that allowing detached ADUs in these areas would expand the opportunities to utilize this housing form without increasing the allowed zoning density. With no increase in allowed density, concerns about impacts on City facilities and services are reduced.
The Commission concludes that the proposed regulations which limit the size, height, number of bedrooms and number of residents will reduce the potential impacts on surrounding properties and result in D-ADUs that are of an appropriate scale for an accessory building.

The Commission concludes that the proposed design guidelines will help retain the established character of the single family neighborhoods.

Recognizing that ADUs are relatively expensive to build and that the costs can be a barrier, the Commission recommends that transportation and parks impact fees be waived for ADUs.

The Commission concludes that ADUs can provide housing opportunities for renters who may not be able to otherwise afford to live in an established single family neighborhood. These areas have convenient access to services, employment, transportation options, parks, trails and neighborhood schools. These units can also provide housing for friends or family members and those in need of caretaking. Statistics from Portland, Oregon show that 30% of current homeowners with ADUs charge no rent to their tenants.

The Commission concludes that ADUs can provide income for the homeowner, allowing folks the opportunity to stay in their home and age in place. ADUs can add value to the property for resale purposes.

The Commission concludes that the current regulation requiring the homeowner with an ADU to live on site is an important factor in addressing concerns about impacts on surrounding properties. This requirement should be retained.

The Commission acknowledges that establishing an occupancy limit of three persons for ADUs could pose an unnecessary hardship in some situations. Therefore the Commission concludes that the occupancy of ADUs should be limited to four persons, and that occupancy is ultimately self-limiting given the inherently small size of ADUs.

The Commission further concludes that the proposed amendments will provide a reasonable and equitable opportunity for locating ADUs, both attached and detached, throughout Bellingham.

III. RECOMMENDATIONS

The Planning Commission supports allowing detached ADUs in all single family zoned areas of the city. This approach would undoubtedly result in more units being constructed, and in more neighborhoods. 93 attached and detached ADUs have been constructed in Bellingham since the original adoption of code provisions allowing this form of housing in 1995. Other cities that have successfully sought to make this form of housing more available generally permit all forms of ADUs in all or most areas, have a relatively simple permit approval process, and have reduced or eliminated many fees, such as impact fees. Currently, ADUs are charged transportation and park impact fees. These fees, added together, add about $5,000 to the cost of an ADU permit. To eliminate these fees, separate BMC changes to the transportation and parks impact fee ordinances would be required.

The Commission’s final recommendations are summarized below and specified in detail in the attached ordinance.

1. Allow detached ADUs in all single family zoned areas citywide.
2. Consolidate and standardize regulations for attached and detached ADUs.

3. Change the maximum number of occupants from three to four for all ADUs.

4. Include a date certain and a unit-count trigger to evaluate and review the ADU ordinance. The Commission recommends that the ordinance be reviewed by December 31, 2025, or when the city reaches 200 detached ADUs citywide or 25 detached ADUs in any one neighborhood, whichever occurs first. The unit count trigger would only apply to new detached ADUs approved following adoption of the ordinance. The unit-count trigger would not apply in those areas that were annexed into the city after 1995 with a "mixed" qualifier that allows multifamily residential.

5. Allow ADUs to be no more than 66% of the size of the primary residence. Allow detached ADUs with ancillary space such as a garage or shop to exceed 800 sq.ft. with approval of a conditional use permit. However in no case should an ADU be larger than 800 sq.ft.

6. Limit the number of bedrooms in detached ADUs to two.

7. Require one parking space for each ADU.

8. Allow administrative minor modifications to ADU regulations consistent with criteria listed in BMC 20.10.036 B.3.

9. Eliminate transportation and park impact fees for all ADUs.

10. Regarding the Happy Valley proposal, the Commission recommends that a single set of development regulations and design standards apply to all areas of the city.

11. Should the City Council decide not to allow detached ADUs in all areas of the city, the Commission recommends that the Happy Valley D-ADU proposal be approved as modified by the Commission, and including the 20-unit cap for D-ADUs as proposed by the Happy Valley Neighborhood Association.

Based on the findings and conclusions, the Planning Commission recommends adoption of the ADU code provisions detailed in the attached ordinance.

ADOPTED this 15th day of February, 2018.

Planning Commission Chairperson

ATTEST:

Recording Secretary

APPROVED AS TO FORM: