

USER NOTE: Notes have been added to the margins to help explain various provisions in the ordinance. They will be removed prior to adoption of a final ordinance.

Attachment B

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

Draft Ordinance (1)

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47 **WHEREAS**, the Comprehensive Plan directs that the City encourage preservation, restoration, and
48 appropriate adaptive reuse of historic properties (Policy LU-76); and
49
50 **WHEREAS**, the Comprehensive Plan directs that the City accommodate the changing needs of
51 residents as they age (Policy LU-85); and
52
53 **WHEREAS**, the Comprehensive Plan directs that the City provide builders, developers and architects
54 with a set of clear objectives and performance goals which promote the highest attainable standard
55 of quality consistent with economic feasibility for new development (Policy CD-14); and
56
57 **WHEREAS**, the Comprehensive Plan directs that the City limit urban sprawl by linking land use and
58 transportation planning (Goal T-1), reduce dependence on single-occupancy vehicles (Goal T-4), and
59 review parking standards to reduce the impacts of parking on urban form, pedestrian mobility, and
60 the natural environment (LU-71); and
61
62 **WHEREAS**, ADUs can provide housing options for those at the beginning of their housing cycle, and
63 those at the end of their housing cycle; and
64
65 **WHEREAS**, in 2017, the 20th ADU permit was issued in the South Hill Neighborhood, triggering this
66 second review of Ordinance No. 10643; and
67
68 **WHEREAS**, the City conducted outreach and attended numerous neighborhood sponsored
69 meetings; and
70
71 **WHEREAS**, the City convened an ADU Focus Group of 13 members from a cross section of different
72 interest groups and tasked them with identifying opportunities and concerns with allowing ADUs;
73 and
74
75 **WHEREAS**, the City convened a Technical Group of 5 local architects, designers, and builders to
76 review the City's ADU development and design standards, and identify recommended changes; and
77
78 **WHEREAS**, the Happy Valley Neighborhood Association formed an ADU Committee and conducted
79 outreach within the neighborhood promoting innovative small scale infill housing, including
80 detached ADUs (D-ADUs), and engaged staff for assistance, culminating in a vote of its officers at a
81 quarterly meeting for a Pilot Program allowing D-ADUs in single family zoned areas of the Happy
82 Valley Neighborhood which was submitted to the City for incorporation into this ordinance; and
83
84 **WHEREAS**, on January 4, 2018, the City of Bellingham as lead agency under the procedures of the
85 State Environmental Policy Act issued a Determination of Non-Significance; and
86
87 **WHEREAS**, in accordance with the Growth Management Act, the State of Washington Department
88 of Commerce was notified on January 4, 2018 of the City's intent to adopt the amendments to the
89 City's environment and land use regulations; and
90
91 **WHEREAS**, the Bellingham Planning Commission held two work sessions in 2015 and three in 2017,
92 on staff's preliminary findings and recommendations for amendments, with appropriate public
93 notice provided; and

94
95 **WHEREAS**, the Bellingham Planning Commission held a public hearing on January 25, 2018, on the
96 amendments, with appropriate public notice provided; and

97
98 **WHEREAS**, the Planning Commission considered the staff report and comments received, and
99 recommended approval of the proposed ordinance; and

100
101 **WHEREAS**, the Planning Commission adopted Findings of Fact, Conclusions and Recommendations
102 to the City Council on **DATE**; and

103
104 **WHEREAS**, the Bellingham City Council held a public hearing on **DATE** on the amendments, with
105 appropriate public notice provided; and

106
107 **WHEREAS**, the City Council finds that the amendments are appropriate and consistent with the
108 State Growth Management Act and the Bellingham Comprehensive Plan;

109
110 **NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

111
112 **Section 1.** BMC 16.80.060(A) regarding Permitted Uses within the Lake Whatcom Reservoir
113 Regulatory Provisions is amended as follows:

- 114 A. Residential Single Permitted Uses – Uses Permitted Outright. No building or land shall be
115 used within an area designated residential single, except as follows:
- 116 1. Single-family dwelling unit with less than 5,500 square feet of total floor area.
 - 117 2. Publicly owned parks, trails and playgrounds.
 - 118 3. Private recreation facilities and/or common open space (when approved by council as
119 part of a subdivision).
 - 120 4. Mixed use (where such a use is specifically listed in a neighborhood land use plan, which
121 has been designated with a “mixed” use qualifier).
 - 122 5. Public utilities (when located within a public right-of-way).
 - 123 6. Attached accessory dwelling unit approved prior to January 8, 2001 (consistent with
124 procedures and requirements outlined in BMC 20.10.036).
 - 125 ~~6.7.~~ Attached and Detached accessory dwelling units existing prior to January 1, 1995
126 (consistent with procedures and requirements outlined in BMC 20.10.035,036).
 - 127 ~~7.8.~~ Confidential shelters subject to the provisions of BMC 20.10.047.
 - 128 ~~8.9.~~ Wireless communication facilities, subject to the provisions of Chapter 20.13 BMC.
 - 129 ~~9.10.~~ Co-housing developments subject to the requirements of BMC 20.10.048.
 - 130 ~~10.11.~~ No residential single lot or parcel may be partially or entirely cleared of vegetation
131 or used as a soil/earth/rock material fill site without having first obtained a valid

Commented [KCJ1]: A-ADUs were permitted in the Lake Whatcom watershed prior to adoption of BMC Chapter 16.80 in 2001. Not adding A-ADUs was an oversight when this chapter was added. This proposed amendment would not add any new attached or detached ADUs in the Lake Whatcom Watershed, but will account for the four (4) A-ADUs that were legally created prior to adoption of BMC 16.80.

Commented [KCJ2]: This date is in reference to the amnesty provision in BMC 20.10.035 which is proposed to be amended and carried over in Draft **20.10.036(D)** as shown in **section 5** of this ordinance.

Commented [KCJ3]: This is a new subsection where all ADU standards from BMC 20.10.035, 20.28.090, .100 will be consolidated into.

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

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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 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.

Commented [KCJ4]: See the following related terms and definitions in BMC 20.08.020 for context:

- Accessory building
- Accessory use
- Dwelling unit
- Family
- Floor Area or Space
- Floor Area Ratio (FAR)
- Height, Building
- Main building
- Principal use
- Owner occupied

Commented [KCJ5]: This language proposed to be struck out is not necessary. It is already contained in the definition of "dwelling unit".

Commented [KCJ6]: This language became outdated when BMC 20.28 Infill Housing Toolkit was adopted and allowed for D-ADUs in various zoning districts. The date (January 1, 1995) is in reference to the amnesty provision in BMC 20.10.035 which is proposed to be amended and carried over in Draft 20.10.036(D) as shown in section 5 of this ordinance.

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. Detached ADUs may additionally be allowed in areas listed in Table 20.37.120.

Table 20.37.120	
Neighborhood	Subarea
Happy Valley	5, 5A, 7, 9, 12, and 15
Sunnyland	8
Various	Residential single zones that were annexed into the city after 1995 with a "mixed" qualifier that allows multifamily residential.

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

Commented [KCJ7]: • If a recommendation is made to only allow D-ADUs in single family zones on a per-neighborhood or subarea basis, this highlighted provision would be added.
• If a recommendation is made to allow D-ADUs in all single family zones citywide pursuant to the Planning Commission's preliminary guidance, this provision would be deleted and amendments would occur instead to BMC 20.30.030(A)(7) as shown in Section 13 of this draft ordinance.

Commented [KCJ8]: This provision would allow D-ADUs to be built in conjunction with various attached and detached single family housing forms such that the D-ADU must comply with any unique standards that apply differently to each housing type (open space, setbacks, etc.)

Commented [KCJ9]: This provision #3 is carried over from the Infill Housing Toolkit [BMC 20.28.030(B)] to apply to both attached and detached ADUs. It has been modified to be more useful and provide sufficient safeguards.

- 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 three (3), 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.

Commented [KCJ10]: - This provision reflects the existing language applicable to A-ADUs.
- Existing D-ADU standards do not specifically list an occupancy limit; it's assumed to be 1 family per the definition of "dwelling unit."
- The Planning Commission's preliminary guidance was for the occupancy of an ADU to be limited to one "family" as defined in BMC 20.08.020 to account for circumstances such as a couple with a child getting pregnant with child #2 or twins, and avoid eviction.
- Staff recommends the existing A-ADU language be retained as shown. Given the problems with enforcing the definition of "family", using the definition as a condition of approval should be avoided. Also, ADU occupancy is largely self-limiting given the small scale size of ADUs (800 SF and 2 bedrooms max). Staff are not aware of any permitted ADUs exceeding the existing occupancy limits since ADUs were first allowed in 1995.

- 248 a. Only one ADU shall be allowed per lot. The lot may not contain more than one
249 primary dwelling unit. The ADU is exempt from density limitations due to its small
250 size and low occupancy.
- 251 b. For a D-ADU, the lot shall have alley access, access to more than one public street,
252 or the lot size shall be at least 5,000 square feet.
- 253 6. **ADU Size.**
- 254 a. Attached and Detached ADUs.
- 255 1) An ADU shall not exceed 50% of the floor area of the primary dwelling
256 (excluding any related garage area attached to the primary dwelling), or 800
257 square feet, whichever is less, and shall contain a minimum square footage as
258 required by the building code.
- 259 2) No more than two bedrooms may be located within an ADU.
- 260 b. Attached ADUs. The Director may allow increased size for an A-ADU in order to
261 efficiently use all, or a portion of, the floor area on one floor of an existing dwelling
262 unit constructed as of (January 1, 1995), provided the ADU does not exceed 800
263 square feet.
- 264 c. Detached ADUs.
- 265 1) The floor area for D-ADUs shall be calculated using the "general" definition of
266 floor area in BMC 20.08.020.
- 267 2) When an accessory building includes a D-ADU and ancillary space (garage,
268 workshop, garden shed, etc.), the building may contain up to a maximum of
269 1,000 gross square feet provide the floor area for the D-ADU does not exceed
270 800 square feet, and the combined floor area of the D-ADU and ancillary space
271 does not exceed 50% of the size of the primary dwelling. However, the hearing
272 examiner may approve larger buildings by conditional use permit pursuant to
273 BMC 20.16, provide the floor area for the D-ADU does not exceed 800 square
274 feet.
- 275 7. Minimum Yards for D-ADUs.
- 276 a. Front and side-flanking yards shall comply with the zoning code provisions for the
277 primary residence except that when the vehicular entrance to an attached garage or
278 carport faces a street, the entrance shall be set back a minimum of 25-feet from the
279 front property line, and 10-feet from a side flanking property line.
- 280 b. A five-foot (5') side and rear yard setback shall be provided, measured from the
281 property line to the foundation of the structure, except as follows:
- 282 1) There is no minimum yard required from an abutting alley.

Commented [KCJ11]: - Existing A-ADU standards: There are no minimum lot size, alley or street frontage requirements.

- Existing D-ADU standards: A lot must satisfy "one" of the criteria to be eligible for a D-ADU, and the parcel must be greater than 10,000 square feet limit - This proposed provision would allow D-ADUs on more lots consistent with A-ADUs, and thereby increase flexibility in how an ADU may be accommodated on a property.

Commented [KCJ12]: - Existing A-ADU standards do not limit the floor area on any single floor provided all other standards are met.

- Existing D-ADU standards limit the floor area on any single floor to 500 sq. ft., thereby necessitating 2-story construction to accommodate up to the 800 sq. ft. maximum.

- This subsection is written to be consistent with existing A-ADU standards, allowing up to the maximum 800 sq. ft. to be placed on a single floor for both attached and detached ADUs to accommodate elderly and disabled.

Commented [KCJ13]: Bellingham (existing standard): 40% or 800 SF max.

Staff Proposal: 50% or 800 SF max.

Planning Commission preliminary guidance: Increase to something more in line with the 90% proposed by the HVN. Seattle: A-ADU = 1,000 SF max, DADU = 800 SF max.

Mercer Island: 80% or 900 SF max.

Portland: 75% or 800 SF max. (1/1/2016).

Ferndale: 50% or 800 SF max. (5/1/2017).

Everett: 75% or 800 SF max. (2/15/2017).

Happy Valley (proposed): 90% or 800 SF/1,000 SF max. including garage and storage.

Commented [KCJ14]: Existing A-ADU standards limit the number of bedrooms to 2.

Existing D-ADU standards do not place a limit on the number of bedrooms.

- 283 2) A D-ADU, including ancillary space attached thereto (garage, workshop, garden
284 shed, bike storage, etc.) may be located in a rear yard and in the rear 22 feet of
285 an interior side yard. If such an accessory building is to be located less than five
286 feet from any common property line, a joint agreement with the adjoining
287 property owner(s) must be executed and recorded with the Whatcom County
288 Auditor's Office and thereafter filed with the city.
- 289 c. A minimum six feet (6') of separation is required between the primary residence
290 and a D-ADU.
- 291 8. Building Height for D-ADUs. A D-ADU shall be no higher than 20 feet under BMC
292 20.08.020, definition No. 1.
- 293 9. Parking. Parking required for an ADU is in addition to that required for the primary
294 dwelling unit.
- 295 a. One on-site parking stall is required for an ADU, except as follows:
- 296 1. No parking is required when adding a street curb cut for private on-site parking
297 would eliminate public on-street parking.
- 298 2. The director may reduce parking requirements based on the applicant's
299 demonstration of site-specific factors that justify a lower standard.
- 300 Any request for a parking waiver shall be processed as a request for minor
301 modification pursuant to subsection (B)(3) of this section.
- 302 b. Parking stalls shall be at least 9 feet by 18 feet.
- 303 c. Parking shall not be located in required front or side street setbacks. Parking in the
304 front portion of the lot shall be discouraged.
- 305 d. If the lot abuts an alley or private access easement, parking shall be accessed from
306 said facility except when the director determines that such access is impractical or
307 environmentally constrained. Any request to forgo alley access shall be processed as
308 a request for minor modification pursuant to subsection (B)(3) of this section.
- 309 e. Parking accessed from a street or lane shall be limited to one driveway per frontage
310 with a maximum width of 20 feet.
- 311 10. Privacy. Where practical, locate and design the ADU to minimize disruption of privacy
312 and outdoor activities on adjacent properties. Strategies to accomplish this include, but
313 are not limited to:
- 314 a. Stagger windows and doors to not align with such features on abutting properties.
- 315 b. Avoid upper level windows, entries and decks that face common property lines to
316 reduce overlook of a neighboring property.

Commented [KCJ15]: Existing D-ADU standards limit the height of a D-ADU to the height of the primary residence or 25' under height definition #1, whichever is more restrictive. - The proposal as written lowers the height limit to 20' but does not further restrict it to the height of the primary residence.

Commented [KCJ16]: Existing A-ADU standards require 1 parking stall per bedroom. Existing D-ADU standards require 1 parking stall regardless of the number of bedrooms. - The proposal as written would allow administrative discretion to decrease parking if criteria are met.

- c. Install landscaping as necessary to provide for the privacy and screening of abutting property.

11. Design Standards.

- 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.

Commented [KCJ17]: Existing A-ADU standards limit the primary residence and A-ADU to 1 entry per street elevation.
Existing D-ADU standards don't limit where entries are located on street elevations.

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

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

362 C. Happy Valley Neighborhood Detached Accessory Dwelling Unit Pilot Program

363 1. The purpose of this section is to allow D-ADUs in the Happy Valley Neighborhood as a
364 pilot program and evaluate the applicability of such accessory uses and alternate
365 standards within the City.

366 2. Limitations of the Pilot Program. Upon issuance of the twentieth D-ADU land use permit
367 within the Happy Valley Neighborhood, the City Council shall evaluate the results of the
368 pilot program and determine if the program shall be extended, modified or concluded.
369 The total detached accessory dwelling units authorized by this pilot program is in
370 addition to A-ADUs authorized by this ordinance. Until City Council concludes the
371 evaluation, any additional D-ADU land use applications shall be processed using the D-
372 ADU standards applicable Citywide. In evaluating the pilot program, the City Council
373 shall consider the following criteria:

- 374 a. Has the program resulted in development that is compatible in design and intensity
375 of the neighborhood?
- 376 b. Are the standards and requirements that have been established adequate to ensure
377 predictable development?
- 378 c. What (if any) additional requirements are warranted based on the consideration of
379 the results of the pilot program?
- 380 d. Are there individual or cumulative impacts associated with the program that were
381 unanticipated and need to be addressed?

382 3. Pilot Program Standards. The following standards are applicable to development of D-
383 ADUs in the Happy Valley Neighborhood. Where the provisions of this section conflict
384 with any other provision in BMC 20.10.036, the provisions of this section shall apply.

- 385 a. Where Allowed. All areas that allow D-ADUs, including single family zoned areas,
386 subject to the limitations in subsection (2) of this section.
- 387 b. D-ADU Size. The 50% threshold limit in subsection (B)(6) of this section may be
388 increased to 90% in the Happy Valley Neighborhood.

Commented [KCJ18]: Consider aligning the threshold review of this pilot program to that proposed for the citywide standards in subsection (F) below to allow for concurrent review.

Commented [KCJ19]: This provision is added by staff for in the event of unforeseen circumstances that may not allow for a timely review such as a lack of staff resources or other work program priorities.

c. Minimum Yards.

- 1) A D-ADU, including ancillary space attached thereto (garage, workshop, garden shed, bike storage, etc.) may be located in a rear yard and in the rear 22 feet of an interior side yard 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:
 - a. The existing use and development pattern on abutting property.
 - b. 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.
 - c. Site characteristics such as building a D-ADU downslope from abutting property.
 - d. Conversion of a detached accessory building existing as of the date of adoption of this Ordinance to a D-ADU.
 - e. Application of design standards in subsection (B)(11) of this section.

Any deviation from standard development regulations requested pursuant to this subsection (c)(1) shall be processed as a request for minor modification pursuant to subsection (B)(3) of this section.

- 2) A minimum of ten feet (10') of separation is required between the D-ADU and main residential buildings located on adjacent properties.

d. Open Space. A minimum of 50 percent of the site area shall be reserved as private open space.

e. Design Standards. Design standards in subsection (B)(11) of this subsection are only applicable to D-ADUs over 15' in height under BMC 20.08.020, height definition No. 1.

f. Alley Improvements.

- 1) Where access to parking for a D-ADU is granted from a city maintained alley (either paved or gravel), no additional improvements to the alley will be required.
- 2) Where access to parking for a D-ADU is proposed from a non-city maintained alley, said alley shall be brought to a minimum standard improvement per the Public Works Development Guidelines and Improvement Standards, as currently enacted or as may be hereafter modified.

D. Existing Illegal Units.

Commented [KCJ20]: Staff does not recommend this HVNA proposal as follows:

- Future development on adjacent property cannot be controlled such that if a D-ADU is built first and then the adjacent property builds something within 10' of the ADU, it would result in the D-ADU being nonconforming.
- Given that this requirement does not apply to the main (larger) home on the property and so could be expanded in mass and bulk to a much greater magnitude by alternatively adding an A-ADU, it should not be applied to the D-ADU.
- A goal is to maintain consistency with existing citywide regulations and between what's allowed for both A- and D-ADUs, simplify whenever possible, and don't over regulate and complicate.

Commented [KCJ21]: Staff does not recommend this HVNA proposal as follows:

- There are several single family standards (BMC 18.32.040, 20.28, 20.30.040, 20.30.050, 20.32.045) and each have a prescribed open space requirement reflective of the housing type and site plan objectives for each. Establishing a single open space standard applicable to all would not be practical.
- A goal is to maintain consistency with existing regulations and simplify whenever possible, and don't over regulate and complicate.

Commented [KCJ22]: This provision is requested by the Happy Valley Neighborhood Association and recommended by the Public Works Department as a demonstration project to evaluate the feasibility of maintaining existing gravel alleys and managing stormwater as incremental infill development occurs in lieu of upgrading alleys with pavement.

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.
- E. Permitting Process. An ADU is required to obtain approval following the procedures established in Chapter 21.10 BMC.
- F. Threshold Review. This ADU Ordinance should be reviewed by City Council by the end of 2021 to coincide with the buildable lands analysis that will be done in anticipation of the next required update to the Bellingham Comprehensive Plan (due in 2024).

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. 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: <ol style="list-style-type: none"> 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

Commented [KCJ23]: "Should" is added to allow the review to be discretionary (not mandatory) for in the event of unforeseen circumstances that may not allow for a timely review such as a lack of staff resources or other work program priorities.

Commented [KCJ24]: Consider aligning the threshold review of the Happy Valley D-ADU Pilot Program in subsection (C)(2) above to that proposed here for the citywide standards to allow for concurrent review.

Commented [KCJ25]: Repeal here so ADU parking standards will only be in the proposed ADU ordinance as shown in **Section 5** of this ordinance [Draft BMC 20.10.036(B)(9)].

USE	PARKING SPACE REQUIREMENT
	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.

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:

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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.

Commented [KCJ26]: • Removing this language will allow detached ADUs in single family zones pursuant to preliminary guidance from work sessions with the Planning Commission.

• If a recommendation is made against the above, and alternatively to only allow detached ADUs in single family zones on a per-neighborhood or subarea basis, that change would occur as shown in Draft BMC **20.10.036(B)(1)** in **Section 5** of this draft ordinance.

Commented [KCJ27]: This proposed amendment would eliminate the 10' garage door setback requirement for detached accessory buildings from public alleys. This would provide consistency with what's currently allowed for all housing types currently listed in the Infill Housing Toolkit (BMC 20.28), including Detached ADUs and Carriage Units. The change would eliminate this code inconsistency, reduce confusion in interpreting the code, make more efficient use of land, reduce excessive impervious surface for driveways, and increase flexibility in project design.

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 D-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	<ol style="list-style-type: none"> 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	<ol style="list-style-type: none"> 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	<ol style="list-style-type: none"> 1. [NO CHANGES]

Commented [KCJ28]: This amendment along with those to BMC 20.28 will maintain the allowance of D-ADUs in Residential Multi zones having a Duplex or Multiple use qualifier.

Commented [KCJ29]: #s 3 and 4 are not needed since they are already accounted for in #1 under the "Multiple" Use Qualifier.

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

549 B. Regulations.

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

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

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

561 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]

562

563 **Section 19.** BMC Chapter 20.37, Article II, Table 20.37.120, concerning Permitted Uses in the
564 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

Commented [KCJ30]: This proposed amendment would eliminate the 10' garage door setback requirement for detached accessory buildings from public alleys. This would provide consistency with what's currently allowed for all housing types currently listed in the Infill Housing Toolkit (BMC 20.28), including Detached ADUs and Carriage Units. The change would eliminate this code inconsistency, reduce confusion in interpreting the code, make more efficient use of land, reduce excessive impervious surface for driveways, and increase flexibility in project design.

Commented [KCJ31]: This amendment along with those to BMC 20.28 will allow D-ADUs in Commercial zones having a Neighborhood use qualifiers, and provide consistency with the existing allowance of A-ADUs as shown in the preceding line (18).

	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]					

Commented [KCJ32]: This amendment along with those to BMC 20.28 will maintain the allowance of D-ADUs in Urban Village general use types having a Samish Way use qualifier (including Residential Transition 2 consistent with the Planning Commission's preliminary guidance to allow D-ADUs in residential zones citywide).

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

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Draft Ordinance (19)

	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]				

Commented [KCJ33]: This amendment along with those to BMC 20.28 will maintain the allowance of D-ADUs in Urban Village general use types having a Fountain District use qualifier.

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				

Draft Ordinance (20)

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	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) N	P	N	N	N	N	N
10. through [NO CHANGES] 14.									
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 Avenue as of August 28, 2012. (12)(11) Institutions of higher education and art schools are permitted. All other schools are conditional, per Chapter 20.16 BMC. (13)(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,									

Commented [KCJ34]: This amendment along with those to BMC 20.28 will maintain the allowance of D-ADUs in Urban Village general use types having a Fairhaven use qualifier.

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
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.									
(14) (13) Excluding the storage and handling of explosives, ammonia, chlorine, and any other similarly dangerous or toxic substances.									
(15) (14) Conditional except for those uses permitted in subsection (D)(9) of this table.									
(16) (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

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 <u>036</u>	P	P	P	N

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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
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]				

Commented [KCJ35]: This amendment along with those to BMC 20.28 will maintain the allowance of D-ADUs in Urban Village general use types having a Downtown District use qualifier.

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]

Commented [KCJ36]: This amendment along with those to BMC 20.28 will maintain the allowance of D-ADUs in Residential Multi zones having a Planned use qualifier.

Section 24. The Council agrees with, and hereby adopts the **Date** Findings of Fact, Conclusions and Recommendations of the Planning Commission, attached as **Exhibit** _.

PASSED by the Council this _____ day of _____, 2018

Council President

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APPROVED by me this _____ day of _____, 2018

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: _____

Attachment C

ADU Standards

Summary of Changes Proposed by Staff

Commonly Used Terms and Abbreviations:

- Bellingham Municipal Code (BMC)
- Accessory Dwelling Unit (ADU)
- Attached ADU (A-ADU)
- Detached ADU (D-ADU)
- Staff Proposal (SP)

Changes Applicable Citywide:

1. **Consolidate standards** in the BMC for Attached and Detached ADUs into a single set of standards for all ADUs and amend language elsewhere in the BMC for clarity.
 - (SP): Repeal BMC 20.10.035, 20.28.090 and 20.28.100 and consolidated into new BMC 20.10.036.
 - (SP): Standardize the regulations and clarify language whenever possible to minimize conflicting standards and improve user friendliness.
2. **Minor Modifications:**
 - (SP): Amend language allowing minor modifications [BMC 20.28.030(B)] to D-ADU standards to be more flexible and useful.
 - (SP): Extend the minor modification provision to also be allowed in reviewing A-ADUs.
3. **Where Allowed:**
 - **D-ADUs:** (SP) Allow in single family zoned areas on a per neighborhood basis by legislative action (BMC 21.10.150), such as what's proposed by the Happy Valley Neighborhood. Otherwise, no other zoning changes to where currently allowed or prohibited.
 - **A-ADUs:** (SP) Remove the maximum 20-ADUs per neighborhood and 200 ADUs Citywide thresholds, otherwise no other changes for A-ADUs.
4. **Lot Requirements (D-ADUs):**
 - (SP): Reduce the minimum lot size required for a D-ADU from "greater than 10,000 square feet" to 5,000 square feet.
 - Continue to allow outright on corner lots and alley lots.
5. **Height (D-ADUs):**
 - (SP): Reduce height limit from 25' to 20'.
 - (SP): Eliminate the standard that further limits the height to not exceed that of the corresponding primary residence.
6. **ADU size:** The maximum 800 square foot size for any ADU is unchanged. As well, the provision allowing an existing split level single-family home (home with more than one floor) to convert up to 50 percent of the area to an A-ADU is unchanged. Proposed new provisions are:
 - (SP): The maximum size of an ADU relative to the primary residence would be increased from 40% to 50%. When built as a D-ADU, this includes the entirety of the accessory building (D-ADU + ancillary space such as garage, shop, garden room, etc.). Regardless, the ADU could not exceed 800 square feet.

- (SP): When a detached accessory building includes both a D-ADU and ancillary space, the detached accessory building may contain up to a maximum of 1,000 gross square feet (current D-ADU standards do not specify a maximum size). If said building will exceed 1,000 square feet in total floor area, separate approval as a conditional use is required. In either case, the ADU could not exceed 800 square feet.
 - (SP): D-ADUs are currently limited to no more than 500 sq. ft. on any single floor. This provision would be eliminated to better accommodate disabled.
7. **Floor Area Ratio (FAR)**: (SP): Development of a D-ADU currently requires all development on a site be restricted to a maximum floor area ratio (**FAR**) of 0.5 for single family development and up to 0.75 for attached townhouse development. This FAR limit would be eliminated except for when an ADU (attached or detached) is built in conjunction with Infill Toolkit Housing (BMC 20.28) since all housing in that chapter are based on FARs.
 8. **Setbacks (DADUs)**:
 - Retain the provision allowing no building setback when abutting an alley.
 - (SP): The required 10' rear yard setback (when no alley) would be reduced to 5' (same as side yard setback).
 - (SP): The rear and side yards setbacks required along common property lines could be administratively reduced to zero (0') in the rear 32' of a property when approved with a subdivision, or when agreed upon by abutting property owners. Though this is a change to the D-ADU standards, it would be consistent with what is currently allowed for detached accessory buildings.
 9. **Aesthetic design**: Require design compatibility standards relative to the primary house (such as building details, massing, proportions and materials) for all ADUs.
 - (SP): Street entrance: Allow the A-ADU a street facing entrance on the same façade as that of the primary residence, provided it is subordinate in design/appearance.
 10. **Bedrooms**: (SP): Allow a maximum of two (2) bedrooms in an ADU. Currently there is no bedroom limit for D-ADUs. The proposed limit would be consistent with what is currently required of A-ADUs.
 11. **Occupancy**: (SP): The total number of persons who may occupy the D-ADU shall not exceed three (3), regardless of relationship. Currently there is no specified occupancy limit for D-ADUs. The proposed occupancy limit would be consistent with what is currently required of A-ADUs.
 12. **Parking**:
 - (SP): Require 1 on-site parking stall for an ADU. Currently A-ADUs require 1 parking stall per bedroom. The proposal would be consistent with what is currently required of D-ADUs.
 - (SP): No on-site parking is required when adding a street curb cut for private on-site parking would eliminate public on-street parking.
 - (SP): The Planning Director may reduce parking requirements based on the applicant's demonstration of site-specific factors that justify a lower standard (i.e.: ample street parking, etc.)
 13. **Utilities**: No changes. Currently, separately metered utilities are allowed for all ADUs.
 14. **Other**: (SP): Amend BMC 20.30.100(B)(1) and 20.32.110(B)(1) to eliminate the 10' garage door setback requirement for detached accessory buildings from public alleys. This would provide consistency with what's currently allowed for Detached ADUs and Carriage Units. The changes would eliminate this code inconsistency, reduce confusion in interpreting the code, make more efficient use of land, reduce excessive impervious surface for driveways, and increase flexibility in project design.

Attachment D1

ADU Standards

Summary of Changes Proposed by the Happy Valley Neighborhood

Commonly Used Terms and Abbreviations:

- Bellingham Municipal Code (BMC)
- Accessory Dwelling Unit (ADU)
- Attached ADU (A-ADU)
- Detached ADU (D-ADU)
- Staff Proposal (SP)

Changes Applicable within the Happy Valley Neighborhood:

Happy Valley Neighborhood D-ADU Pilot Program

The changes proposed below would further modify the staff proposed changes shown in **Attachment C** and only be applicable to development of D-ADUs within the Happy Valley Neighborhood as a pilot program.

1. Where Allowed:

- Allow a maximum of 20 D-ADUs in the Happy Valley Neighborhood, including in all single family zoned areas, followed by city review of the results of the program to determine if it should be extended, modified, or concluded.

2. Setbacks:

- The required 5' side yard and 10' rear yard setbacks currently required along common property lines may be administratively reduced to zero (0') in the rear 32' of a property if specific criteria are met, including review as a minor modification. Though this is a change to the D-ADU standards, it would be consistent with what is currently allowed for detached accessory buildings.
- Require a minimum of ten feet (10') of separation between the D-ADU and any "main" residential buildings located on adjacent properties.

3. Open Space:

- Require a minimum 50 percent open space. Open space requirements are currently established by the housing type the D-ADU is to be built with (single family detached, single family cluster, small or smaller house lot, townhouse, etc.).

4. D-ADU size:

- The maximum size of a D-ADU relative to the primary residence would be increased from 40% to 90%. Regardless, the ADU could not exceed 800 square feet.

5. Aesthetic design:

- Design compatibility standards relative to the primary dwelling unit (such as building details, massing, proportions and materials) would only be required for D-ADUs that are over 15' in height. Currently, such standards are required for all D-ADUs.