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Anacortes Planning Commission
Municipal Building - Council Chambers
904 6th Street

December 13, 2023
6:00 PM

PRELIMINARY AGENDA
[Packet Materials](#) / [Watch Meeting](#)

1. **Roll Call**
2. **Minutes**
 - a. Minutes of 09/27/2023 and 11/08/2023.
3. **Public Comment***
4. **Public Hearings**
 - a. LEG-2023-02 - Amend AMC 19.49 *Nonconforming uses and structures* to provide for alterations and additions to nonconforming historic buildings
 - LEG-2023-04 - Amend AMC 19.41.040 *Principal uses permitted in residential zones* and AMC 19.43.010 *Household living* to change certain housing types from conditional uses to permitted outright uses in the R2 and R3 zones
 - LEG-2023-05 - Amend AMC 19.47.030 *Accessory dwelling units (ADU)* to remove owner occupancy requirements
5. **Other Business**
6. **Adjournment**

**Citizens wishing to comment on items not on the agenda may do so under Public Comment. Citizens wishing to comment during a public hearing may do so as those items are considered by the Planning Commission during the course of the meeting.*

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Anacortes Planning Commission Minutes - September 27, 2023

Roll Call

Executive Session

Potential Litigation or Litigation per RCW 42.30.110(1)(i) (15 minutes)

Chairperson MacKenzie introduced the executive session by stating that the Planning Commission will now go into executive session for potential litigation or litigation pursuant to RCW 42.30.110(1)(i). The executive session will last approximately 15 minutes and no action will be taken. At the conclusion of the executive session, the Planning Commission will return to Council Chambers and resume the meeting.

Public Comment*

Ian Muntz, 1711 Quail Dr. complimented the PC on the decision made on the Port of Anacortes project. He's discouraged that the Port wants to go back 20 years in time.

Public Hearings

Proposed Amendment to AMC 19.70.040(B) Exempt Activities

Darcy Swetnam presented Ordinance 4058 which is a development regulation for Planning Commission evaluation and eventual recommendation to City Council. She presented a slideshow regarding the history of the ordinance. The City adopted ordinance 4025 in response to Growth Management Hearing Board appeal proceedings. Part of the ordinance updated the language regarding exempt activities in critical areas. Mr. Munch appealed this and the City entered into a settlement agreement to amend the language. The intent of the appeal is to better protect critical areas and request reversion to the previous language. The argument was made that the harm standard is a higher threshold for City enforcement action. She reviewed the text of the proposed changes to 19.70.040(B). Staff reviewed the proposed language with Planning Department staff and determined this language to be acceptable. The Department of Ecology and Fish & Wildlife agree that the language should change. Staff recommends approval to the City Council.

Chairperson MacKenzie pointed out that the last part of the proposed language change is newer language. Darcy agreed.

Public Hearing Opened

Ian Munce stated that the idea of harm came from the Department of Fish & Wildlife. Basically a misunderstanding is being corrected tonight. He wants to thank City staff, the Planning Commissioners and Department of Fish & Wildlife for entertaining this change.

No additional comments

Public Hearing Closed

Commissioner Martin moved that the Planning Commission recommend to City Council that they adopt the proposed amendment to 19.70.040(B) related to exempt activities as presented. Commissioner Graf seconded the motion. All Ayes.
Adjourned 6:21.

Anacortes Planning Commission Minutes - November 8, 2023

Roll Call

Minutes

Public Comment

No public comment.

Public Hearing

Other Business

LEG-2023-02 - Amend AMC 19.49 *Nonconforming uses and structures to provide for alterations and additions to nonconforming historic buildings*

The proposed amendment changes are somewhat related, so they're being brought forward together. The first is proposed changes to AMC 19.49. There are multiple historic buildings in Anacortes that are considered nonconforming because the zoning or dimensional standards have changed since they were constructed. Staff identified a potential conflict between the current non-conforming provisions and the City goals for preservation of historic buildings. Typically non-conforming provisions are aimed at eventually eliminating non-conforming uses and structures overtime as they are contrary to the public interest as codes change over time. However, historic structures are identified as priorities for preservation. The application of the non-conforming provisions may present a barrier to preservation of historic buildings. The Anacortes Comprehensive Plan directs the protection, preservation and celebration of Anacortes's historic, cultural, and archeological resources and encourages flexibility in zoning standards to preserve historic buildings. The proposed code amendment would allow historic buildings to be restored, reconstructed, and enlarged so long as nonconformity is not increased and the building's eligibility for listing on the historic register is not affected. The goal is to allow non-conforming historic structures to be rebuilt/restored to the preexisting configuration instead of requiring them to come into conformance with the current zoning standards and allow for flexibility for additions and alterations to promote investment and economically feasible adaptive reuse of historic structures, while maintaining historic character of the structure. She reviewed the proposed amendment, section D in the non-conforming provisions.

Commissioner Martin referenced the proposed language, under #1, expressing concern that it says there is "full compliance with state building codes", but that is not the case.

Libby clarified that the intent is to restore a damaged building as close to the original configuration as possible considering the different building codes and life safety requirements.

Ms. Martin asked if that phrase is necessary or if the language needs to be reworked to remove that contradictory language.

Libby said staff could look at rewording that portion.

Commissioner Jeretzky referenced page 2 asking if these revisions are only for buildings on the historic registry.

Libby stated that this only applies to buildings on the national, state or local historic registry. She pointed out that there are not that many buildings on those registers.

Mr. Jeretzky referenced page 3, purpose, which includes the language "not to encourage their survival". He asked if we encouraging these buildings to be torn down.

Ms. Grage clarified that for historic buildings the intent is to allow them to be rebuilt to the preexisting footprint. We don't want to disincentivize preservation of historic buildings.

Commissioner Jeretzky moved on to the nonconforming uses section #2 which states they can't

enlarge, alter or expand the building. He wondered if someone wanted to turn the Eagle's building into apartments, would that be allowed under this language.

Libby pointed out that those changes would all be internal and not under the purview of this section. In this example, if a residential use is allowed in that zone, the building could be remodeled to accommodate that use.

Commissioner MacKenzie commented that these items need to be addressed. He feels it's beneficial to maintain historical structures, instead of tearing them down. Regarding life safety provisions in the code, he asked if this includes electrical, plumbing, fire suppression systems, etc. John Coleman clarified that the safety provisions do include fire safety and anything dangerous. Mr. MacKenzie asked if enlarging the footprint, the requirement to install an elevator or parking limitations are those included in this.

Libby stated this change would not affect parking as this deals just with the structure. This language would not address those aspects of nonconformity. Staff could look at changing that as well. This language addresses the building itself.

LEG-2023-04 - Amend AMC 19.41.040 *Principal uses permitted in residential zones* and AMC 19.43.010 *Household living to allow more housing types in more residential zones promoting middle and affordable housing*

Libby said the impetus for this proposed amendment is the Housing Action Plan that came before the Planning Commission in 2022 before it was adopted by City Council in January 2023. The HAP was developed to achieve the City's housing vision for affordability and sustainability. The HAP recommends strategies and actions that promote greater housing diversity, affordability, and access to opportunity for residents of all income levels. The proposed changes are to change certain uses that are permitted from conditional to permitted outright in residential zones. Included in this is changing duplexes from a conditional use to a permitted use in the R2 zone and changing triplex, townhouse and multi-family (up to 4 units) from conditional uses to permitted outright in the R3 zone. The original staff packet included additional changes, but has decided to hold off on those changes. Those will be brought forward at a later date.

She clarified that there would be an additional revision needed to facilitate the changes to 19.41.040, which is updating AMC 19.43.010 G.3.a. This clarifies that townhomes with up to 4 attached units are permitted, but anything more than 4 is not permitted in the R3 zone. The rationale for this change is that conditional use permits can be time-consuming and a long process and daunting for most people. The intent of the conditional use permit is to address compatibility between the conditional uses and other uses in the zone. There are already standards in place to maintain those compatibility issues. For example, in R2 duplexes would change to permitted outright provided minimum lot sizes are met and design standards are followed.

Commissioner Jeretzky asked what the minimum lot size is for a 3000 sq ft triplex. He also asked staff to clarify the "half dwelling" language on page 10.

John Coleman clarified that there have been changes to the original packet for tonight.

Mr. Jeretzky also wants to confirm the 10% open space requirement listed on page 4 of 16.

Libby commented that's the standard that is already in the code. This refers to usable open space, which includes landscaping elements that makes it livable for the residents. Not all open space is considered towards the 10% requirement.

Commissioner Mackenzie said we should be clear that greater density doesn't always mean cheaper, affordable housing. Rather it will likely result in more availability.

LEG-2023-05 - Amend AMC 19.47.030 *Accessory dwelling units to remove owner occupancy requirements*

Libby commented that the ADU regulations are being brought forward because the WA State Legislature passed HB 1337, which prohibits jurisdictions from requiring owner-occupancy for ADU's. There will be additional changes coming forward to Planning Commission regarding additional changes to ADU regulations. She reviewed the proposed code revision. Currently, when an owner builds an

ADU, they are required to fill out a declaration stating that they will be living in the main home or the ADU, which is recorded with the County Auditor. The state says cities can no longer require this. Commissioner Mackenzie asked how the installation of an ADU on a lot differs from a duplex. He asked if it's a square footage issue.

Ms. Grage pointed out that ADU's have a maximum size of 900 sq ft. This will be addressed in the future. The new state law also requires jurisdictions to permit 2 ADU's on lots; a total of 3 dwelling units on the lot.

Mr. Mackenzie asked how this interacts with the short-term rental policy (currently on hold).

Libby said currently short-term rentals are not a permitted use in any zone. Currently, there is a moratorium on short-term rentals in some commercial zones. Staff is working on permanent regulations for short-term rentals.

Commissioner Jeretzky asked when the final drafts will come back to the Planning Commission.

Libby clarified that the next steps will be a SEPA review on each of the amendments. Then a Planning Commission Public Hearing tentatively for December 13th and then to City Council in January 2024.

Additional Item - Population Figures

John Coleman said we're gearing up for 2025-2045 Comprehensive Plan update! We are trying to complete some of these smaller items, so that we can bring forward these larger updates in the future. In 2025, we are required to update the Comprehensive Plan based on projected population and employment growth, along with facilities planning, land use planning, etc. Once we have the population figures, we have to determine how much land we have dedicated to all of those uses, and then figure out based on our current zoning, how can we accommodate that in our existing boundaries and urban growth area. If we cannot accommodate, we need to look at expanding the UGA or change zoning policies so that we can accommodate another 20 years of population and employment growth. Skagit County selected to use the medium projection growth figures. Then each jurisdiction determines where the population growth will go. We are looking to see how many housing units are needed in each housing financial bracket (based on average median income). The total projected population growth for Skagit County for 2025-2045 is 17,452 new units needed. He reviewed the amount of units needed per AMI bracket. We need to provide a lot more housing in the lower income brackets than we ever have. Commissioner Jeretzky asked if the allocation per community has been determined.

John said it has not yet.

Mr. Jeretzky asked if the demographics of the communities come into play in the allocations.

Mr. Coleman clarified that there are multiple ways to determine how to disperse the population projections throughout each jurisdiction. We settled on a method of distribution of population that researched the past 10 years to project how many in each bracket we anticipate for each City. Staff is reviewing the projections based on those figures.

John referenced the recent City Council meeting in which they passed the critical areas amendments that the Planning Commission recommended at their September 27th meeting. It's been approved by Council and should be going into effect in a few days.

Commissioner Martin commented that at a recent City Council meeting a former commissioner recommended that the MJB property go thru EIS process.

John pointed out that will come to the Planning Commission for review, so he cannot talk about that in detail. He mentioned that typically a MDNS is used when we identify the potential impacts. If staff has done a good job of identifying the potential impacts, then an EIS would not be necessary. You identify in the MDNS what the impacts are and make sure they are addressed in the MDNS. If we are expecting impacts outside of the normal expectation of a project, we can put requirements on the MDNS to address those necessary mitigations.

Ms. Martin wondered that as a commissioner, we need to look at this narrowly. She pointed out that we don't usually look at the infrastructure to accommodate the proposal.

John stated that when Commissioners are doing their review, you are looking at the impacts based on the current city code and existing city abilities. Staff should be providing those things for your consideration. If there are impacts that seem more than what we can currently handle (traffic, utilities,

etc) then we have the ability to condition the proposal and mitigate those things.
Adjourned. 7:06 p.m.

Adjournment



Planning Commission Agenda Bill

Meeting Date: December 13, 2023

Agenda Item: 4.a.

Subject: LEG-2023-02 - Amend AMC 19.49 *Nonconforming uses and structures* to provide for alterations and additions to nonconforming historic buildings
LEG-2023-04 - Amend AMC 19.41.040 *Principal uses permitted in residential zones* and AMC 19.43.010 *Household living* to change certain housing types from conditional uses to permitted outright uses in the R2 and R3 zones
LEG-2023-05 - Amend AMC 19.47.030 *Accessory dwelling units (ADU)* to remove owner occupancy requirements

Staff Contact: LIBBY GRAGE

Approved for Submittal to Commission by

LIBBY GRAGE
John Coleman

Action Type

Public Hearing

Summary Statement: The City is considering amendments to the Anacortes Municipal Code Title 19, as described in the attached staff report. A public hearing regarding the amendments will be held on November 13, 2023.

Background: See attached staff report.

Previous Action: None

Competing Viewpoints Considered: Written public comments received as of 12/7/23 are attached. Public testimony will be taken at the public hearing on 12/13/23.

Recommended Motion: I move to recommend to the City Council adoption of the proposed amendments.

Alternative Actions: Do not recommend adoption, or recommend alternative amendment language.

Attachments (listed in order presented):

1. Staff Report
2. Attachment A - AMC 19.49 Nonconforming Structures amendment
3. Attachment B - AMC 19.41.040 & 19.43.010 amendments - Cs to Ps
4. Attachment C - AMC 19.47.030 ADU amendment
5. Public Comments Received as of 12/7/23 (3:17 pm)
6. SEPA DNS
7. Environmental Checklist
8. Notice of Availability



Planning, Community, & Economic Development Department

904 6th Street / PO Box 547, Anacortes WA 98221

Staff Report

To: Anacortes Planning Commission
Date: December 7, 2023
From: Libby Grage, Planning Manager
Subject: Proposed Development Regulation Amendments – LEG-2023-02, LEG-2023-04, and LEG-2023-05

SUMMARY

This memo describes the regulatory background for the development regulation amendment process; provides an outline of the public review process; analyzes the proposed changes pursuant to the local and State requirements; and describes the Planning, Community & Economic Development Department's (PCED) recommendations to the Planning Commission for deliberation. After the public hearing the Planning Commission will deliberate on each of the proposals and make a recommendation to the City Council.

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BACKGROUND & FINDINGS OF FACT

[Anacortes Municipal Code \(AMC\) Chapter 19.16](#) provides the procedures for review of Legislative Actions, including comprehensive plan and development regulation amendments.

SEPA and AMC Ch. 19.16

The following sections demonstrate the City's compliance with the procedural requirements for legislative actions pursuant to local and State requirements:

1. Compliance with the State Environmental Policy Act (Chapter 197-11 WAC, AMC 19.16.060, and AMC 18.04).

- Staff prepared an environmental checklist for the proposed amendments, dated November 16, 2023. The checklist includes evaluation of all proposed amendments.
- A Determination of Nonsignificance (DNS) was issued based on the environmental checklist on November 22, 2023.
- Any comments received prior to the close of the public comment period will be provided to the Planning Commission.

Conclusion – The proposed amendments will satisfy local and State SEPA requirements at the conclusion of the comment period.

2. Procedural Compliance with the Growth Management Act (RCW 36.70A.106):

- The City must notify the Department of Commerce, at least 60 days in advance, of its intent to adopt comprehensive plan and development regulation amendments.
 - The City requested review from the Department of Commerce on October 12, 2023 for LEG-2023-02 (nonconforming historic structures); the 60-day notice period ends on December 11, 2023.
 - The City requested review from the Department of Commerce on November 9, 2023 for LEG-2023-04 and LEG-2023-05; the 60-day notice period ends on January 8, 2024.
- Staff will file the adopted ordinance(s) with the Department of Commerce within 10 days of the City Council's action.

Conclusion – The proposed amendments will meet the Growth Management Act requirements.

3. Public Notice and Comments (AMC 19.16.070):

- The City published a Notice of Availability, Public Comment, Public Hearing, and SEPA threshold determination (the Notice) in the Anacortes American on November 22, 2023.
- The City distributed the Notice to the City's departmental email list, published it on the City's website, placed it on the City Hall bulletin board and provided a copy to the Library for posting on November 22, 2023.
- Any written comments received prior to the close of the comment period will be presented to the Planning Commissions prior to deliberations.

Conclusion – The City has met the public notice requirements of AMC 19.16.070.

PROPOSED AMENDMENTS

LEG-2023-02. Amend AMC 19.49 *Nonconforming uses and structures*

Summary

The proposed amendment would allow for reconstruction /restoration and enlargement of nonconforming historic buildings.

See **Attachment A** for the current proposed amendment text in strike-through/underline track changes format.

Recommendation

PCED recommends that the Planning Commission recommend to City Council that the proposed amendment be adopted.

Analysis

Under the existing Anacortes Municipal Code ([AMC 19.49.040](#)), nonconforming buildings that are removed or destroyed may only be replaced if they are made to conform to the current zoning code regulations. Also, any additions to nonconforming structures must conform to current zoning and dimensional standards. There are currently no exceptions to these provisions for historic buildings.

The nonconforming provisions, as they currently exist, may conflict with the City's historic preservation goals because they may impede the ability to restore /reconstruct a nonconforming historic building to its preexisting state. They may also negatively impact the feasibility of adaptively reusing and preserving historic buildings. The proposed changes are intended to provide flexibility to encourage preservation of historic buildings.

The proposed amendments further the following Anacortes Comprehensive Plan goals and policies:

Goal LU-3. Historic Preservation. Protect, preserve, and celebrate Anacortes's historic, cultural, and archaeological resources.

Policy LU-3.2. Craft and maintain zoning regulations to balance the need to accommodate anticipated growth while preserving the City's historic resources and character. Consider techniques to integrate incentives and/or site design flexibility for preservation and/or reuse of historic structures.

LEG-2023-04. Amend AMC 19.41.040 *Principal uses permitted in residential zones* and AMC 19.43.010 *Household living*

Summary

The proposed amendments would change [AMC Table 19.41.040](#), the table of principal uses permitted in residential zones, as follows:

- Change duplexes from a conditional use ("C") to a permitted outright use ("P") in the R2 zone
- Change triplexes, townhouses (up to 4 units) and multi-family (up to 4 units) from a conditional use ("C") to a permitted outright use ("P").
- Update the R3 and R3A zone-specific housing type standards in AMC 19.43.010.G.3.a to reflect the changes to Table 19.41.040.

See **Attachment B** for the current proposed amendment text in strike-through/underline track changes format.

Recommendation

PCED recommends the proposed amendment to the Development Regulations be **approved**.

Analysis

The source of these proposed amendments is the [Anacortes Housing Action Plan](#) (HAP), adopted by the Anacortes City Council on January 17, 2023 via [Resolution 3104](#). The HAP recommends strategies to increase the supply of housing, and variety of housing types, needed to serve the housing needs for all income levels in Anacortes. Development of the Anacortes HAP involved extensive public outreach that included stakeholder interviews, community survey, planning commission public meeting, city council public hearing and a city web page that made available related documents and allowed for early and continuous public participation and public comment. The HAP includes a schedule of programs and actions to <https://anacortes.municipal.codes/AMC/19.41> implement its recommendations.

Duplexes in the R2 zone

The HAP includes the following recommendation and rationale for changing duplexes from a conditional use to permitted outright in the R2 zone:

“2.1.2. – Residential Low Density 2 (R2) Zone

Duplexes are proposed to be changed from conditional to outright permitted in the R2 zone. This streamlines the permitting process and reduces uncertainty. Conditional use permits are not necessary for duplexes due to the new 2019 design standards. Also see Strategy 2.4.1 for the minimum lot size recommendation for duplexes.”

Note: The referenced HAP Strategy 2.4.1 recommends reducing the minimum lot size for smaller duplexes (1,200 – 1,400 sq. ft) from 9,000 sq. ft. to 7,500 sq. ft. in the R2 zone; however, **the current amendment proposal does not propose reducing minimum lot sizes at this time and retains the current minimum lot size of 9,000 sq. ft. for a duplex, regardless of unit size.**

The referenced “2019 design standards” for duplexes ([AMC 19.43.010.E](#)) would remain applicable.

Triplexes, Townhouses (up to 4 units) and Multifamily (up to 4 units) in the R3 zone

The HAP includes the following recommendation and rationale for changing triplexes, townhouses (up to 4 units) and multi-family (up to 4 units) from conditional uses to permitted outright in the R3 zone:

“2.1.4 – Residential Medium Density 3 (R3) Zone

Triplexes and townhouses

Triplexes, townhouses, and multi family projects with up to four units are proposed to be changed from conditional to outright permitted in the R3 zone, provided they meet proposed unit size limitations or additional lot size standards (see Strategy 2.4.1 for different options). The zone specific standard for townhomes under AMC 19.43.010(G)(3)(a) can be amended as follows:

- a. *R3 and R3A zone standards: Townhouse structures with up to four attached units are permitted by right ~~in the R3A zone and conditionally permitted in the R3 zone.~~ Townhouse structures with more than four attached units are prohibited in the R3 and R3A zones.*

The lot dimension requirements and standards for open space, parking configuration, and architectural design help ensure that duplexes, triplexes, townhomes, and small multifamily

projects will be compatible with the existing character of these zones without the unnecessary cost and process of a conditional use permit.

Comprehensive Plan policy LU-6.1.D says, 'Encourage [duplexes and triplexes] in the R3 and R4 zones provided design provisions that emphasize a pedestrian-oriented design and the inclusion of usable open space are included.' Such provisions are now in place for not only triplexes but also duplexes, townhouses, and multifamily housing. Allowing uses by right helps encourage them.

Multifamily

The R3 multifamily (4-units) change is also supported by the Comprehensive Plan description of the Residential Medium Designation, which is implemented by the R3 and R3A zones. It says, 'low density multifamily may be allowed under certain circumstances.' Those circumstances are not defined, but the new multifamily design standards adopted in 2019 and the growing need for additional housing supply found by the HAP Existing Conditions and Housing Needs Analysis Reports are notable changes to the situation since the Comprehensive Plan was adopted in 2016. Fourplexes are also valuable because the accessibility requirements of the Fair Housing Act apply in buildings of four or more units."

Note: The referenced HAP Strategy 2.4.1 recommends reducing the minimum lot size for duplexes, townhouses (up to 4 units) and multifamily (up to 4 units); however, **the current amendment proposal does NOT propose reducing minimum lot sizes at this time and retains the current minimum lot size of 7,500 sq. ft. for a duplex, 10,000 sq. ft. for 3 units, and 12,500 sq. ft. for 4 units.**

Townhouses and multifamily projects must meet the use-specific site and building design standards outlined in [AMC 19.43.010.G](#) and [AMC 19.43.010.H](#), respectively.

The proposed amendments further the following Comprehensive Plan goals and policies:

- Policy LU-6.1. Provide for a wide variety of housing types within the city to meet the full range of housing needs for Anacortes' evolving population.

.....

D. Duplexes & Triplexes. Encourage these housing types in the R3 and R4 zones provided design provisions that emphasize a pedestrian design, and the inclusion of usable open space are included.

E. Townhouses. Encourage the development of townhouses in the R3, R4 and on certain side streets in the C and CBD zones as an efficient and popular form of housing for a large demographic of Anacortes' population. Design standards emphasizing pedestrian-oriented design, façade articulation, and usable open space are particularly important.

.....

LEG-2023-05. Amend AMC 19.47.030 Accessory Dwelling Unit (ADU)

Summary

The proposed amendment is to remove the requirement for a property owner to occupy either the accessory dwelling unit or primary dwelling unit on a property.

See **Attachment C** for the current proposed amendment text in strike-through/underline track changes format.

Recommendation

PCED recommends the proposed amendment to the Development Regulations be **approved**.

Analysis

In 2023, [House Bill 1337](#) amended [RCW 36.70A](#) to add significant changes to local government roles for regulating Accessory Dwelling Units. Under the new law, within 6 months of the due date of a jurisdiction's comprehensive plan periodic update, cities and counties must update their regulations for ADUs to be consistent with the statute. Cities and counties:

- Must allow two ADUs per residential lot. They may be attached, detached, or a combination of both, or may be conversions of existing structures.
- **May not require the owner to occupy the property**, and may not prohibit sale as independent units.
- May not charge more than 50% of impact fees charged for the principal unit.
- Must allow an ADU of at least 1,000 square feet and must adjust zoning to be consistent with the bill for such things as height, setbacks, and other regulations.
- Must set consistent parking requirements based on distance from transit and lot size.

The City is required to amend its codes to address all of HB 1337 by December 2025. The current proposed amendment only removes the owner-occupancy requirement at this time.

If a city or county does not amend its rules to be consistent with the law by the deadline, the statutes will **"supersede, preempt and invalidate any conflicting local development regulations."**

The Anacortes HAP includes the following recommendation and rationale for removing the owner-occupancy requirement for ADUs:

"2.3 – ADU Regulations.

Action: Streamline ADU regulations to make them easier to finance, permit, and build.

First... remove the owner occupancy requirement, except for where the ADU is used as a short term rental. This is a common requirement across Washington cities, but it is discriminatory against renters and perpetuates economic exclusion. It also raises financial risk for homeowners by constraining their choice on where to live in the future (especially for seniors and military families) and reduces chances of receiving bank financing for some borrowers. It also unfairly targets ADUs with a restriction that is not in place for any other type of rental housing. The requirement is also difficult to enforce. Removing this restriction is national best practice,

recommended by organizations like the AARP and the Washington chapter of the American Planning Association.”

Note: New short term rentals are not permitted in residential zones, and there is currently a moratorium on the short term rental of dwelling units in most mixed use zones (C, CBD, MMU, CM).

NEXT STEPS

Following the Planning Commission public hearing the Planning Commission should deliberate and make a recommendation to the City Council on each of the proposed amendments. City Council will consider the Planning Commission’s recommendations and adopt any amendments by ordinance at a future city council meeting.

LEG-2023-02: Amendments to AMC 19.49 *Nonconforming Uses and Structures*

11/2/23 Draft

Proposed changes are shown below in ~~Strikeout~~/Underline track changes format.

Chapter 19.49

NONCONFORMING USES AND STRUCTURES

19.49.010 Purpose.

The purpose of this chapter is:

- A. To permit nonconforming uses or structures to continue until they are removed, but not to encourage their survival, except as expressly provided in this chapter; and
- B. That nonconforming uses or structures may not be used as grounds for adding other structures or uses prohibited elsewhere in the same zone; and
- C. That nonconforming uses or structures not be allowed to expand, be altered, or be reconstructed except as otherwise outlined in this chapter. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.49.020 General rule.

- A. Any lot, building, structure, or use of land, legally permitted or established, must be permitted to continue consistent with this chapter. A change in occupancy or ownership does not affect the right to continue such use, building, or structure.
- B. Any use for which a conditional use permit has been obtained is not a nonconforming use so long as the requirements of the conditional use permit are met. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.49.030 Enlargement, alteration, expansion or change of nonconforming uses.

A. *Nonconforming Uses.*

1. A building containing a nonconforming use may be maintained, repaired, or brought up to more current structural and safety standards.
2. No nonconforming use may be permitted to be enlarged, altered, or expanded. This includes structural alterations not required by law and any enlargement that changes parking requirements.

Exception: A nonconforming use may be extended throughout any part of the building which was designed for the use prior to the adoption date of this chapter.

B. No nonconforming use may be allowed to be reestablished after abandonment. Thereafter, the use of the building, structure or site must be in conformity with the regulations for the zone in which it is located.

C. A nonconforming use may not hereafter be changed to any other nonconforming use, regardless of the conforming or nonconforming status of the building in which it is housed.

(Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.49.040 Enlargement, alteration, reconstruction of nonconforming buildings and structures.

A. Routine maintenance, cosmetic changes (such as new siding, windows, or roofing), changes to improve energy efficiency, changes to a structure to address unsafe conditions, or upgrading inadequate utilities must not be considered alterations.

B. When a nonconforming building or structure is damaged by fire, natural disaster, or other calamity, and structural repairs are needed to maintain a building or structure in a safe structural condition, the building or structure may be restored or replaced, provided:

1. A complete application for reconstruction or replacement is submitted within one year of the damage; and

2. That the restoration or replacement must be made to conform to the regulations of the zone in which the building or structure is located, or if such regulations cannot physically be met without reducing the size of the building, the restoration may not extend any nonconformity that existed prior to the damage.

C. Additions to nonconforming structures that meet all applicable zoning dimensional standards will not be considered an enlargement under this section. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

D. Historic Buildings and Structures. Nothing in this Chapter prevents the full restoration by reconstruction of a building or structure which is either listed on the National Register of Historic Places, the Washington State Register of Historic Places, the Washington State Cultural Resource Inventory, or the Anacortes Register of Historic Places.

1. "Restoration" means reconstruction of the historic building or structure with as nearly the same visual design appearance and materials as is consistent with full compliance with the State Building Codes and consistent with any historic preservation provisions adopted by the city.

2. The reconstruction of all such historic buildings and structures must comply with the life safety provisions of the State Building Codes.

3. Enlargement or alteration that does not increase the nonconformity or disrupt the eligibility of a building or structure for listing on historic lists or registers may be permitted.

19.49.050 Abandonment.

A. For the purposes of this section, abandonment will mean:

1. An intention to abandon; and
2. An overt act, which carries the implication that the owner does not claim or retain any interest in the right to the nonconforming use.

B. *Conformance after Abandonment.* If any nonconforming use of land, building, or structure ceases for any reason whatsoever for a period of one year or more, any future use of such land, building or structure must thereafter be in conformity in the zone in which it is located. The mere presence of a structure, equipment, or material will not be deemed to constitute a continuance of a nonconforming use unless the structure, equipment, or material is actually being occupied or employed in maintaining such use.

C. *Procedure for Verifying Abandonment.* When the Department obtains information indicating that a nonconforming use, building or structure has or may have been abandoned, the Department must send a letter by certified mail return receipt requested to the property owner requesting confirmation of either abandonment or nonabandonment. Documentation that the nonconforming use, structure, or building has been occupied, used, or maintained within the last year will be required. After notification, if the owner fails to respond to the request within 60 days, the building, structure, or use will be deemed abandoned. If the owner replies that the building, structure, or use is not abandoned, the Director may initiate a Level 2 review to determine if the abandonment has occurred. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

LEG-2023-04: Amendments to AMC 19.41.040 Principal uses permitted in residential zones & 19.43.010 Household living

11/8/23 Draft

Proposed changes are shown below in ~~Strikeout~~/Underline track changes format.

19.41.040 Principal uses permitted in residential zones.

Table 19.41.040 below provides the list of permitted principal uses in residential zones.

NOTE: Accessory uses are not shown in these principal use charts. See AMC Chapter 19.47, Accessory Uses and Structures, for applicable accessory use provisions.

Table 19.41.040

Principal uses permitted in residential zones.

Principal Use	R1	R2	R2A	R3	R3A	R4	R4A	OT	Reference
RESIDENTIAL									
Household Living, as listed below									AMC <u>19.43.010(A)</u>
Single-family	P	P	P	P	P	P	P	P	AMC <u>19.43.010(B)</u>
Single-family, small lot				P	P	P	P		AMC <u>19.43.010(C)</u>
Cottage housing		P	P	P	P	P	P		AMC <u>19.43.010(D)</u>
Duplex		C P	P	P	P	P	P	P	AMC <u>19.43.010(E)</u>
Triplex				C P	P	P	P		AMC <u>19.43.010(F)</u>
Townhouse				C P ^(X)	P	P	P		AMC <u>19.43.010(G)</u> ^(X) AMC <u>19.43.010(G)(3)</u>

Attachment B

Principal Use	R1	R2	R2A	R3	R3A	R4	R4A	OT	Reference
Multifamily, 4 units					P	P	P		AMC <u>19.43.010(H)</u> and <u>(I)</u>
Multifamily, 5 or more units						P	P		AMC <u>19.43.010(H)</u> and <u>(I)</u>
Live-work									AMC <u>19.43.010(J)</u>

Amend AMC 19.43.010 as follows:

19.43.010 Household living.

A. *Household Living Use Category.* Residential occupancy of a dwelling unit by a household. Household living includes the following uses:

1. Single-family.
2. Single-family, small lot.
3. Cottage housing.
4. Duplex.
5. Triplex.
6. Townhouse.
7. Multifamily, four or more units.
8. Live-work.

B. *Single-Family.* **[NO CHANGE]**.....

C. *Single-family, small lot.* **[NO CHANGE]**.....

D. *Cottage housing.* **[NO CHANGE]**.....

E. *Duplex.* **[NO CHANGE]**.....

F. *Triplex.*

1. *Definition.* A building that is entirely surrounded by open space on the same lot and contains three dwelling units.

2. *Standards.*

- a. Triplexes are subject to the entry and driveway access and garage standards for single-family small lot (subsections (C)(3)(a) and (b) of this section). The entries for individual units may be grouped (including a shared path connecting grouped entries to the sidewalk) or separated.

b. See AMC 19.53.030 for general driveway and access easement standards. Separate driveways are permitted for each unit, provided each driveway is limited to 12 feet in width and meets driveway separation standards in AMC 19.53.030(D).

c. *Standards for Minimum Useable Open Space.*

i. All new triplex units must provide a contiguous open space with a minimum dimension of 15 feet on all sides.

ii. The minimum collective size of usable open space is 10 percent of the lot area. For example, an 8,000-square-foot lot would require at least 800 square feet of usable open space, which could include separate 20-foot by 20-foot usable open spaces for each unit.

iii. Where the usable open space is configured within the street setback, the open space must be defined with a fence or wall (meeting the standards of AMC Chapter 19.66). See Figure 19.43.010(E)(2)(c) for an example.

iv. Covered but unenclosed decks and porches may be used as a part of the usable open space, provided they are a part of a space that meets the standards herein.

v. LID stormwater BMPs, like rain gardens, may be integrated in up to 25 percent of the minimum required usable open space area.

vi. Drive aisles must not count in the calculations for usable open space.

vii. Additions must not create or increase any nonconformity with this standard.

3. Multiple triplexes may be built on the same lot, provided the “additional lot size needed for additional dwelling unit beyond duplex, minimum,” per Table 19.42.020, is met.

G. *Townhouses.*

1. *Definition.* A dwelling unit in a row of at least three such units in which each unit has its own front access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

2. *Purpose.*

a. To enhance the character of the street.

b. To maintain “eyes on the street” for safety to pedestrians and to create a more welcoming and interesting streetscape.

- c. To de-emphasize garages and driveways as major visual elements along the street.
- d. To provide usable open space for residents.
- e. To reduce the apparent bulk and scale of large townhouse buildings.
- f. To promote architectural variety that adds visual interest to the neighborhood.

3. *Zone-Specific Standards.*

a. *R3 and R3A Zone Standards.* Townhouse structures with up to four 4 attached units are permitted by right. ~~in the R3A zone and conditionally permitted in the R3 zone.~~ Townhouse structures with more than four 4 attached units are prohibited in the R3 and R3A zones.

b. *R4 and R4A Zone Standards.* Townhouse developments have the following form and intensity adjustments from Table 19.42.020:

- i. Maximum lot coverage: 60 percent.
- ii. Minimum landscaped area: 15 percent.

c. In the MMU zone east of Q Avenue, townhouses and other permitted residential uses within single-purpose buildings may cover up to 60 percent of the site area (parcel or contiguous parcels held under common ownership), provided they meet access, site and building design standards in this title. Associated parking, landscaping, open space, and other facilities accessory to the residential uses are included within the site area limitation. The maximum percentage may be increased through a framework development plan (AMC 19.61.180).

d. *C Zone Standards.*

- i. Townhouses that do not meet the standards for live-work dwellings that front on Commercial Avenue within the C zone are prohibited.
- ii. Townhouses that do not meet the standards for live-work dwellings are prohibited within the C zone south of 41st Street.

4. *Setbacks.* The minimum setbacks set forth in Table 19.42.020 apply to development frontage and external side and rear setbacks of the entire townhouse development. See AMC 19.42.130(C) for exemptions involving interior side setbacks for townhouses.

5. *Entries.*

- a. Clear and obvious pedestrian access between the sidewalk (or the street if there is no sidewalk) and the building entry is required for new dwellings.
- b. All new dwellings must provide a covered pedestrian entry with minimum weather protection of three feet by three feet (a covered porch or recessed entry).
- c. For townhouses where the primary pedestrian access to the dwelling is from an alley or private internal vehicular access, buildings must emphasize individual pedestrian entrances over private garages by using both of the following measures:
 - i. Enhance entries with a trellis, small porch, or other architectural features that provide cover for a person entering the unit and a transitional space between outside and inside the dwelling.
 - ii. Provide a planted area in front of each pedestrian entry of at least 20 square feet in area, with no dimension less than four feet.

Alternative designs will be considered, provided they meet the purpose of the standards.

Figure 19.43.010(G)(5)

Acceptable and unacceptable examples of garage/entry configurations.



The left example features a landscaped area and a trellis to highlight the entry. In the middle image, the balconies and landscaped areas de-emphasize the garage. In the right image, the lack of landscaping near the entries would not be allowed (where this is the primary pedestrian entry to the unit).

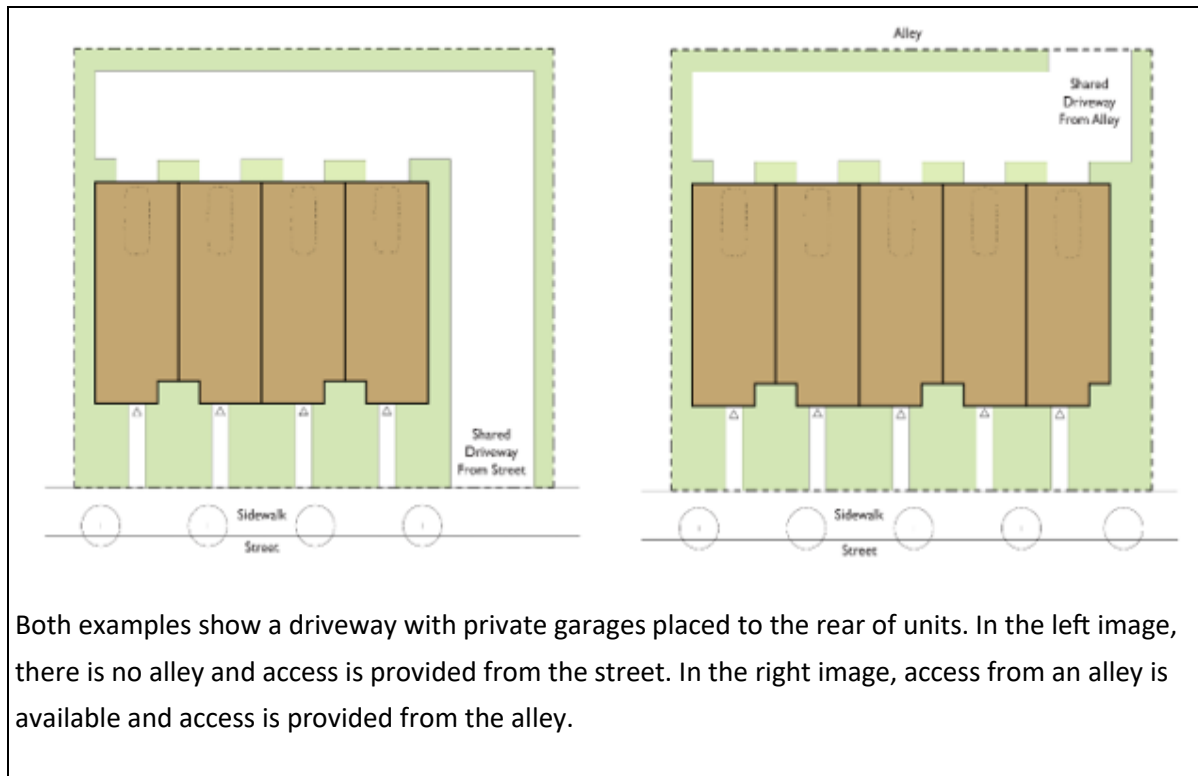
6. *Facade Transparency.* Transparent windows and/or doors are required on at least eight percent of facade area (all vertical surfaces of street-facing elevations). For corner lots, this standard is only applied to the elevation containing the dwelling entry.

7. *Private Garages Facing the Street—Maximum Garage Widths.*

- a. Individual garages facing the street are not allowed for townhouse dwellings unless they are designed to meet driveway standards in AMC 19.53.030. Garages may be provided to the rear of the dwelling via alley access or shared driveway as depicted in Figure 19.43.010(G)(7).
- b. Individual garages facing the street (where allowed) are limited to 12 feet in width.

Figure 19.43.010(G)(7)

Townhouse development examples using side/rear vehicular access.



Both examples show a driveway with private garages placed to the rear of units. In the left image, there is no alley and access is provided from the street. In the right image, access from an alley is available and access is provided from the alley.

8. *Access and Parking.*

- a. Off-street parking standards for townhouses are set forth in AMC 19.64.040 as a type of multifamily residential use (based on the number of bedrooms). Also see AMC 19.64.030(B) for guest parking standards.
- b. See AMC 19.53.030 for driveway and access standards.

c. Internal Drive Aisle Standards.

- i. Must meet minimum widths and other standards such as turning radii of the city-adopted International Fire Code.
- ii. Minimum building separation along uncovered internal drive aisles must be 24 feet. Projections into this minimum building separation standard are permitted for each building consistent with the interior side setback projections referenced in AMC 19.42.140. The purpose is to provide adequate vehicular turning radius, allow for landscaping elements on at least one side, and provide adequate light and air on both sides of the dwelling units and vehicle areas, which often function as usable open space for residents.
- iii. See AMC 19.53.050 for other internal circulation requirements.

9. *Usable Open Space.* Townhouse dwelling units must provide open space at least equal to 10 percent of the gross floor area. The required open space may be provided by one or more of the following:

- a. Private ground level open space that is directly adjacent and accessible to dwelling units. Such space must have minimum dimensions of at least 12 feet on all sides and be configured to accommodate human activity such as outdoor eating, gardening, toddler play, etc. Street setbacks may be used to meet this standard, provided they are defined with a fence (meeting standards of AMC Chapter 19.66, Fences, Walls and Hedges).
- b. Balconies, roof decks or porches.
- c. Shared open space that meets the design requirements of AMC 19.62.040(B)(2), provided such space is visible and directly accessible to townhouse dwelling units.
- d. LID stormwater BMPs, like rain gardens, may be integrated in up to 25 percent of the minimum required usable open space area.

Individual private open spaces for one unit that exceed the open space standards may not be used to help meet the open space standards for other dwelling units. Shared open spaces that meet the standards of subsection (G)(9)(c) of this section, however, may be used to supplement private open spaces meeting subsections (G)(9)(a) and (b) of this section to help dwelling units meet the usable open space standards herein.

Figure 19.43.010(G)(9)

Examples of usable open space adjacent to townhouse units.

	
The townhouses above include private ground level open space (a) and balconies (b).	Private ground level open spaces.



Freedom Park qualifies as shared open space and may be used to help those townhouses adjacent to the space meet their minimum usable open space requirements.

10. *Building Design.*

- a. *Townhouse Articulation.* Townhouse buildings must comply with residential building articulation standards in AMC 19.63.040(C), except that the articulation intervals must be no wider than the width of units in the building. Thus, if individual units are 15 feet wide, the building must include at least three articulation features for all facades facing a street, common or other shared open space, and common parking areas at intervals no greater than 15 feet.
- b. *Repetition with Variety.* See Figures 19.43.010(G)(10)(a) and (b). Townhouse developments must employ one or more of the following “repetition with variety” articulation guidelines:
- i. Reversing the elevation of two out of four dwellings (see Figure 19.43.010(G)(10)(a)).
 - ii. Providing different building elevations for external (units on the end or corner of a building) townhouse units (versus internal units) by changing the roofline, articulation, windows, and/or building modulation patterns.
 - iii. Adding a different dwelling design or different scale of the same design, such as adding a one-story version of the basic dwelling design where two stories are typical (or a two-story design where three stories are typical).
 - iv. Other design treatments that add variety or provide special visual interest, such as different cladding materials, window sizes and groupings, roof slopes, porch designs, balconies, etc. While the variable use of color on buildings can be effective in reducing the perceived scale of the building and adding visual interest, color changes alone are not sufficient to meet the purpose of the standards.

Figure 19.43.010(G)(10)(a)

Acceptable townhouse configuration employing the repetition with variety concept.

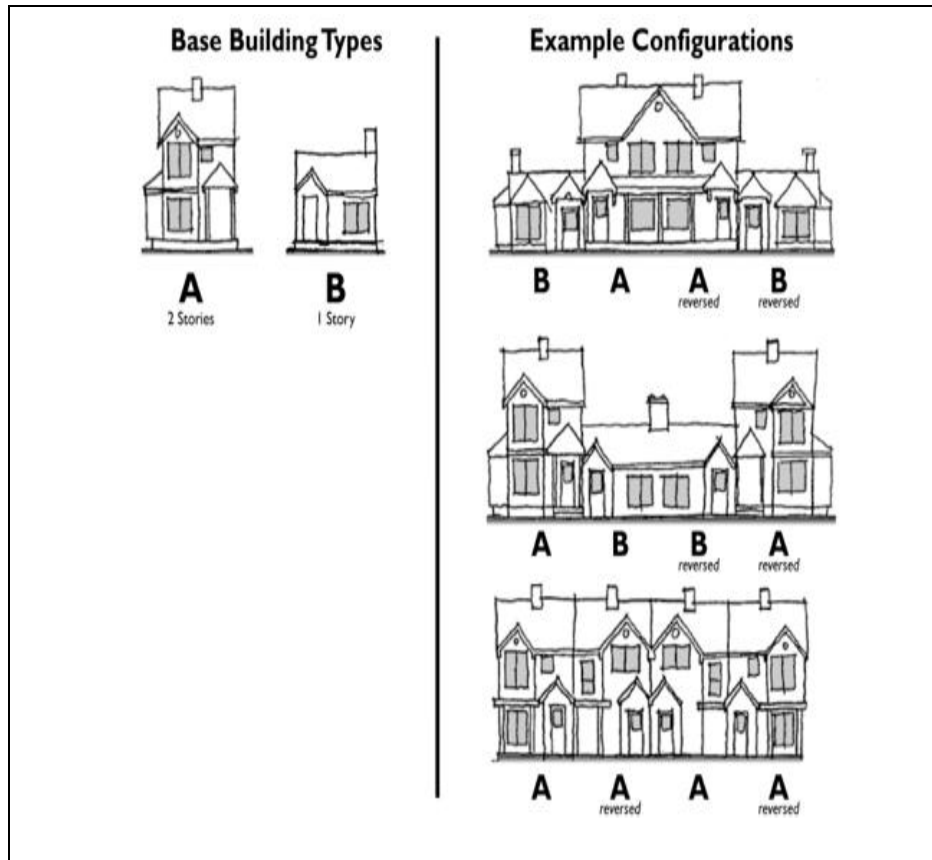


Figure 19.43.010(G)(10)(b)

Acceptable townhouse buildings integrating the “repetition with variety” guidelines.



The internal units in the left image each have distinct, but identical, windows and roof forms. The outside unit is differentiated through the use of building materials, window design, unit size, and facade detailing. The internal and external units in the right example include reverse elevations.

H. *Multifamily.*

1. *Definition.* A building that contains four or more dwelling units. The term also includes any dwelling units that are within a mixed-use building.

2. *Standards.* Multifamily uses are subject to design provisions in Division 6 of this title, including block frontage standards, site planning, building design, and landscaping. See AMC 19.53.050 for internal circulation requirements.

3. *MMU Zone East of Q Avenue Standards.*

a. Multifamily dwellings are allowed on upper floors throughout the site.

b. Multifamily dwellings and other permitted residential uses within single-purpose residential buildings* may cover up to 60 percent of the site area (parcel or contiguous parcels held under common ownership), provided they meet access, site and building design standards in this title. Associated parking, landscaping, open space, and other facilities accessory to the residential uses are included within the site area limitation. The maximum percentage may be increased through a framework development plan (AMC 19.61.180).

* Mixed-use buildings that meet the following criteria are not considered a single-purpose residential building:

- i. At least 50 percent of the ground level building frontage is designed to accommodate nonresidential uses meeting the interior space requirements in subsections (H)(3)(b)(ii) and (iii) of this section.
- ii. Spaces feature 13-foot-minimum floor-to-ceiling height.
- iii. Spaces are at least 50 feet deep.

4. *CM Zone Standards.* Multifamily uses are conditionally permitted, provided it can be demonstrated that the use will not weaken the zone's tourist or marine-oriented purpose, nor diminish the marine values inherent in the zone, such as physical and visual access to waterways and shoreline. Multifamily units that are part of a mixed-use development incorporating commercial marine uses are permitted and single-purpose multifamily developments require a conditional use permit.

5. *MS Zone Standards.*

- a. Multifamily dwellings are conditionally permitted west of Commercial Avenue and south of 2nd Street.
- b. Residential units must be no larger than 800 square feet each and constructed within a mixed-use development.

6. C Zone Standards.

- a. Single-purpose multifamily uses that front on Commercial Avenue within the C zone are prohibited.
- b. Single-purpose multifamily uses are prohibited within the C zone south of 41st Street.

7. R4 and R4A Zone Standards. Multifamily developments have the following form and intensity adjustments from Table 19.42.020, provided at least 50 percent of all required parking is located within and/or below the structure:

- a. Maximum lot coverage: 75 percent.
- b. Minimum landscaped area: 15 percent.

I. Multifamily, Restricted.

1. Definition. A dwelling unit restricted to occupancy by a person or persons who satisfy one of the following requirements:

- a. Meet the minimum age in the definition of “housing for older persons” contained in Section 3607(b)(2) of the Federal Fair Housing Act, as amended.
- b. Their domestic partners and/or live-in caregivers are 55 years of age or older and/or disabled.
- c. Are disabled or handicapped regardless of age.

J. Live-Work.

1. Definition. A dwelling unit designed to accommodate a small commercial enterprise on the ground floor and a residential unit above and/or behind. A live-work unit may be designed as any type of household living dwelling unit.

2. Standards.

- a. Permitted nonresidential uses may be those that are permitted in the applicable zone or overlay designation as established by AMC Chapter 19.41, Allowed Uses.
- b. See standards in other subsections of this section for the applicable dwelling type the live-work use resides in.
- c. The nonresidential use may occupy up to 50 percent of the gross floor area of the live-work dwelling.
- d. The ground floor must be designed to accommodate nonresidential uses. This includes an area along the building frontage with:
 - i. Minimum floor-to-ceiling height: 13 feet.
 - ii. Minimum interior depth: 20 feet.
- e. The residential use and the nonresidential use are subject to the provisions of AMC Chapter 19.64, Parking.

Exception: Where nonresidential net floor area is less than 1,000 square feet and where on-street parking is available along the site's frontage, uses that require less than four spaces per 1,000 square feet of net floor area per Table 19.64.040 are exempt from additional off-street parking spaces. For uses in the subject table where "Director decision" is specified, the applicant must supply documentation per AMC 19.64.040(B) that the actual parking demand for the proposed use is less than four spaces.

K. *Manufactured Home.*

- 1. *Definition.* See RCW 35.63.160.
- 2. *Standards.* A manufactured home may be placed on any lot where new single-family residences are allowed and must meet the following requirements:
 - a. The manufactured home must be new.
 - b. The manufactured home must be set upon and attached to a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground must be enclosed by concrete or a permanent wall finished with standard residential materials, which can be either load-bearing or decorative.
 - c. The manufactured home must comply with applicable design standards for single-family development.

- d. The manufactured home must comply with the state energy code.
- e. The manufactured home otherwise meets all other requirements for a designated manufactured home as defined in RCW 35.63.160.

This section does not override any legally recorded covenants or deed restrictions of record. (Ord. 3040 § 2 (Att. A), 2019)

LEG-2023-05: Amendments to AMC 19.47.030 Accessory Dwelling Units

11/2/23 Draft

Proposed changes are shown below in ~~Strikeout~~/Underline track changes format.

19.47.030 Accessory dwelling unit (ADU).

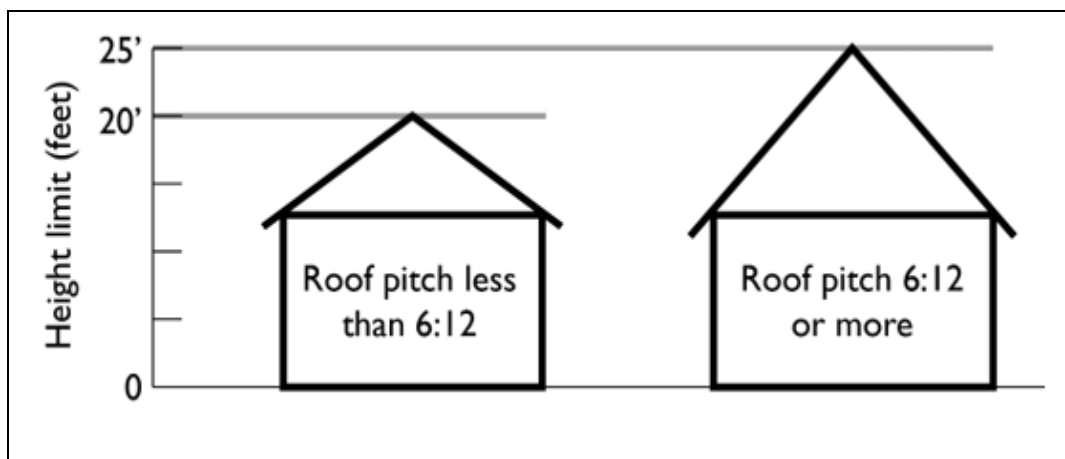
- A. *Definition.* A second dwelling unit attached or detached from the primary residential unit on a lot.
- B. *Purpose.* The purpose of an accessory dwelling unit is to:
1. Add affordable units to existing housing and make housing units available to moderate-income people who might otherwise have difficulty finding homes within the city.
 2. Promote the development of additional housing options in residential neighborhoods that are appropriate for people at a variety of stages of their lives.
 3. Provide homeowners with a means of obtaining, through tenants in either the accessory dwelling unit or the principal residence, rental income, companionship, or security.
 4. Protect neighborhood stability, property values, and the character of the neighborhood.
- C. *Standards and Criteria.*
1. *When and Where Permitted.* An ADU may be established in any zone on a lot with a single-family residence. An ADU may be created by any one or combination of the following methods:
 - a. Alteration of interior space of an existing residence.
 - b. Conversion of an attic, basement, attached or detached garage, or other portion of a residence.
 - c. Addition of a living area enclosed within the principal building.
 - d. Construction of a detached living area.

- e. Associated with the construction of a new single-family dwelling (where permitted).
- 2. *Number.* Each single-family residential unit may have only one ADU.
- 3. *Subdivision.* ADUs must not be subdivided or otherwise segregated in ownership from the principal dwelling unit.
- 4. *Maximum Size.* The ADU may not exceed 900 square feet gross floor area.
- 5. *Maximum Height.*
 - a. ADUs enclosed within the principal building are subject to the height limits for the applicable zone in Tables 19.42.020 and 19.42.030.
 - b. Height limits for detached ADUs are:
 - i. Twenty feet where the roof pitch is less than 6:12.
 - ii. Twenty-five feet where the roof pitch is 6:12 or greater.

Exception: ADU height and roof pitch adjustments may be needed for structures to comply with the 45-degree height/setback plane provisions in subsection [\(C\)\(6\)\(a\)](#) of this section.

Figure 19.47.030(C)(5)

Height limits for detached ADUs.



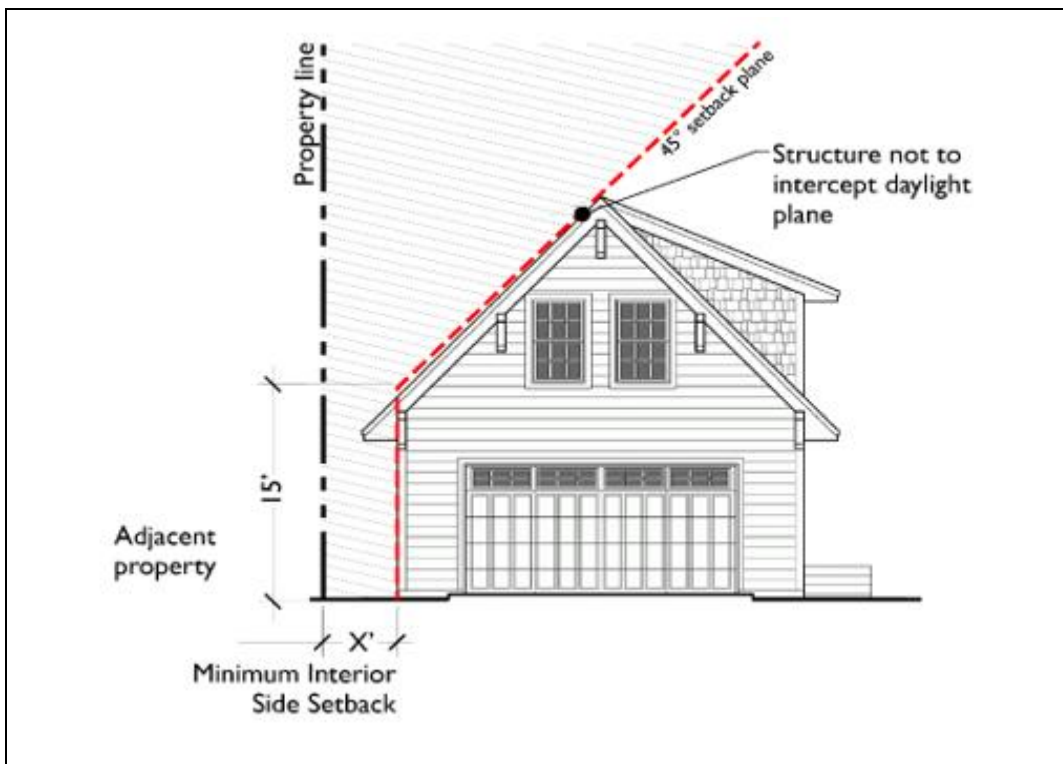
- 6. *Minimum Setbacks and Siting Requirements.* ADUs enclosed within the principal building are subject to the setback requirements for the applicable zone. Standards for detached

ADUs (whether or not they are attached to a garage) are subject to the following setback requirements:

- a. Minimum interior side setback: five feet, except that from a height of 15 feet at the five-foot minimum interior side setback, buildings must step back at a 45-degree angle away from the interior side or rear property line as shown in Figure 19.47.030(C)(6) below.
- b. Minimum rear setback (to alley property line): zero feet, except where garage doors or a carport faces the alley, the structure must be set back a minimum of 10 feet from the alley property line to allow adequate turning distance for vehicles.
- c. Detached ADUs must be located consistent with the minimum usable open space standards of AMC [19.43.010\(C\)\(3\)\(c\)](#), regardless of lot size.

Figure 19.47.030(C)(6)

Height/setback plane for detached accessory dwelling units along interior side setbacks.



7. *Living Facilities.* At a minimum, an accessory dwelling unit includes a bathroom, kitchen, and separate exterior access.

8. *Parking.* A minimum of three parking spaces must be provided for the principal and accessory dwelling units. Where on-street parking is available abutting the lot, only two off-street spaces must be provided for the principal and accessory dwelling units.

9. *Entrance.* The entrance to the ADU must not be on the same side of the structure as the entrance to the principal residence, except when such entrance is not visible from the street as determined by the Director.

Exception: If an ADU is created within an existing residence which already has more than one existing exterior door on the same side, an existing door may be utilized for the ADU.

~~10. *Owner Occupancy.*~~

~~a. Either the principal or accessory dwelling unit must be occupied by an owner of the property for six or more months of each calendar year as the owner's permanent residence. "Owners" includes title holders and contract purchasers. The applicant must record a notice against the property title with the county auditor, on forms provided by the Department, describing this requirement.~~

~~b. The Director may waive the requirement of subsection (C)(10)(a) of this section for up to three years if a letter is submitted that provides evidence of good cause for the waiver. Good cause may include job dislocation, military deployment, sabbatical leave, education, or illness. (Ord. 3040 § 2 (Att. A), 2019)~~

December 1, 2023

TO: Anacortes Planning Commission
Libby Grage, Planning Manager



FROM: Mary Jo McArdle 

RE: Public Notice. November 22, 2023.

Proposed Legislative Amendment (LEG-2023-05) "Amendment to AMC 19.47.030 Accessory Dwelling Unit. Remove requirement for owner occupancy on a property with an accessory dwelling unit.

'10. Owner Occupancy. a. Either the principal or accessory dwelling unit must be occupied by an owner of the property for six or more months of each calendar year as the owner's permanent residence. "Owners" includes title holders and contract purchasers. The applicant must record a notice against the property title with the county auditor, on forms provided by the Department, describing this requirement. b. The Director may waive the requirement of subsection (C)(10)(a) of this section for up to three years if a letter is submitted that provides evidence of good cause for the waiver. Good cause may include job dislocation, military deployment, sabbatical leave, education, or illness. (Ord. 3040 § 2 (Att. A), 2019).'

AMC 19.47.030 B (3,4) currently states the purpose of an accessory dwelling unit is: (3) 'provide homeowners with a means of obtaining, through tenants ...rental income, companionship, or security'. (4) 'protect neighborhood stability, property values, and the character of the neighborhood'.

The character of all residential zones is threatened by removing the requirement that one of the units be occupied by the owner of the property. Neighborhoods will degrade in value. Care and pride in keeping neighborhoods inviting, lawns and gardens maintained will be lost. Neighbors meeting neighbors and creating neighborhood communities will disappear. The transient nature of rental units will become overwhelming and widespread.

AMC 19.47.030 C (10) further provides an avenue for waiving the owner occupancy requirement as stated. 'The Director may waive the requirement of subsection (a) for up to three years if a letter is submitted that provides evidence of good cause for the waiver. Good cause may include job dislocation, military deployment, sabbatical leave, education, or illness.'

This established avenue for exceptions exists in current code. Changing the code does NOT address Anacortes's housing needs. It merely allows for more rental units.

This proposed amendment sounds like it is being pushed by a finite group of folks who see financial opportunities for themselves. More residential properties will be purchased by absentee real estate investors and real estate brokers that have no interest in the integrity and the small town character that the Comprehensive Plan makes clear, is a fundamental foundation and goal to maintain and enhance.

Real innovative and 'outside the box' exploration and codification needs to be done to **truly address** affordable housing rental needs in Anacortes that don't further degrade nor increase density in the City's R-3, R-3A, R-4 and R4A residential neighborhoods including increasing density and housing types in the City's R-1, R-2 and R-2A zones and OT.

Please DO NOT recommend this LEG-2023-05, Amendment to 19.47.030 be approved by Planning Commission for City Council consideration.

Comments to Planning Commission on City Staff ADU Proposal (with Attachments)

Ian Munce <ianmunce@gmail.com>

Mon 12/4/2023 8:35 AM

To: Libby Grage <LibbyB@cityofanacortes.org>

 3 attachments (3 MB)

Attachment A.pdf; Attachment C.pdf; Attachment D.pdf;

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Attachments:

- A. Existing City Guidance
- B. January, 2023 Housing Action Plan (on City webpage)
- C. April, 2023 State Directives (HB 1337)
- D. State Commerce Guidance

Dear Planning Commissioners,

I respectfully submit that the ADU recommendation before you should be deferred until the 2025 Comprehensive Plan and subsequent development regulation updates in order to allow for a comprehensive analysis, study, community dialogue, and clear standards.

With the passage of HB 1337 (Attachment C) the existing City Code and Guidance (Attachment A) and the City's Housing Action Plan (Attachment B) must be updated in line with State Guidance (Attachment D).

Yes, HB 1337 directs that the City's Code eliminate (as proposed by City staff) the requirement that the ADU owner live on the subject property. However, should hookup and impact fees continue to be waived (or refunded) for what will now become a simple real estate transaction? Should there not be an explicit exclusion for projects in or adjacent to critical areas and how should this exclusion be worded? Should the City prohibit new short term rentals? Should ADUs be allowed on lots not served by public sewer? How should the City's stormwater permit mandates be included? Should the design specifications and process be adjusted if there are two, not just one, ADUs on a lot? In other words, clear standards appropriate for our town.

HB 1337 gives an explicit liability waiver if the City were to approve ADUs contrary to homeowner covenants, but will the City at least have in a consultation process in place?

HB 1337 allows for and anticipates full consideration of these issues with extensive public participation by the end of 2025. Moving a single amendment forward at this time without clear standards and expectations will provide a windfall for some to the detriment of many.

Thank you for this opportunity to comment.

Ian Munce, AICP
1711 Quail Drive
Anacortes



PLANNING, COMMUNITY, & ECONOMIC DEVELOPMENT

Mailing Address: P.O. Box 547, Anacortes, WA 98221

Office Location: 904 6th Street, Anacortes WA 98821

Phone: (360) 299-1984

Accessory Dwelling Unit Information

Updated August 6, 2019

For the complete development regulations governing ADUs, please review AMC 19.47.030.

What is an Accessory Dwelling Unit?

An Accessory Dwelling Unit (ADU) is a second dwelling unit attached or detached from the primary residential unit on a lot.

ADUs generally include living, sleeping, kitchen and bathroom facilities and have a separate entry from the primary dwelling.

What requirements must be met to establish an ADU?

An ADU can be established in any zone on a lot with a single-family residence. The following criteria must be met:

- The property owner must occupy either the primary home or the ADU as their permanent residence. The owner-occupant must live in the structure for more than 6 months of each calendar year.
- Owners must sign, notarize, and record with Skagit County an owner-occupancy covenant.
- A lot may have no more than one ADU, and the ADU may not be subdivided or segregated in ownership from the primary dwelling.
- The maximum size for an ADU is 900 sq. ft. gross floor area.
- A total of 3 parking spaces must be provided for the ADU and primary residence. Where on-street parking is available abutting the lot, only 2 off-street spaces must be provided.

- The maximum height and minimum setbacks for an ADU depend on whether it is attached or detached from the primary home, its proximity to side yard lot lines, and whether it is adjacent to an alley. See AMC 19.47.030.C.5-6 for details.
- ADUs must be located to provide usable open space that contains:
 - Area equivalent to 10% of the lot area.
 - Minimum dimensions of 15' on all sides.

What are the process, cost, and submittal requirements for establishing an ADU?

Step 1: Review AMC 19.47.030 and evaluate your property and plan to ensure that all of the ADU requirements can be met. The City offers a preapplication process that allows you to obtain early feedback from city staff about your proposal, before submitting your formal application.

Step 2: Prepare your application drawings and other documents:

- Prepare the detailed site plan and floor plans (for both the main house and the ADU), and energy calculations.
- Prepare exterior elevation drawings if you are building a new structure or making changes to an existing building.
- Prepare full structural plans, including framing plans, sections, etc. if you are building a new structure or an addition.
- Complete the ADU application form.

- Fill out the attached owner occupancy covenant.
- Note that you will need to convert any paper plans and documents into digital files (pdfs).

Your plans must clearly identify where you are doing new work to create the ADU. For information on plan requirements, see the Residential Site Plan Checklist.

Step 3: Submit your application.

After your application is determined to be complete, we will review your application and plans to make sure they conform to City of Anacortes codes. We will notify you if you need to make corrections. You will need to provide corrected plans to us.

After we review the Owner Occupancy Covenant, and you make any necessary corrections, you need to have it notarized and recorded at the Skagit County Auditor's Office. You will need to provide a recorded copy to the City. Your Owner Occupancy Covenant will become part of the title records for your property.

Once we can approve your plans, we will issue your permit.

You are responsible for complying with all applicable code and rule requirements, whether or not they are described in this document. As you build your ADU, you must request inspections by calling us at 360-299-1901. When your project is complete, call your inspector and request a final inspection. Once we give you the final inspection approval, a tenant may occupy the ADU.

What other permits are required?

You will need a separate electrical permit from [Department of Labor and Industries \(L&I\)](#) for any electrical work.

If you are doing any plumbing work, you will need a plumbing permit.

If you are connecting to an existing side sewer, you might be required to get a side sewer

permit.

What fees are required to be paid?

When you submit your application, you will need to pay a land use review fee and building permit fee based on the value of work to be done.

ADUs are exempt from payment of impact fees and general facilities charges.

What happens when a lot with an ADU is sold?

If the new owner intends to maintain the ADU, whether or not it is occupied by tenants, the new owner must abide by the occupancy requirements recorded on the property title.

If the owner chooses to no longer rent or use the ADU, the owner will have to remove the features that make it a separate unit.

What if a unit is created without a permit?

If we receive a complaint about an illegal ADU, we may inspect the unit and send the owner a Notice of Violation. We will require the owner to legalize the unit or remove the features that make it a separate unit. In addition, the owner may be subject to penalties as provided in AMC Title 20.

19.47.030 - Accessory dwelling unit (ADU).

A. Definition. A second dwelling unit attached or detached from the primary residential unit on a lot.

B. Purpose. The purpose of an accessory dwelling unit is to:

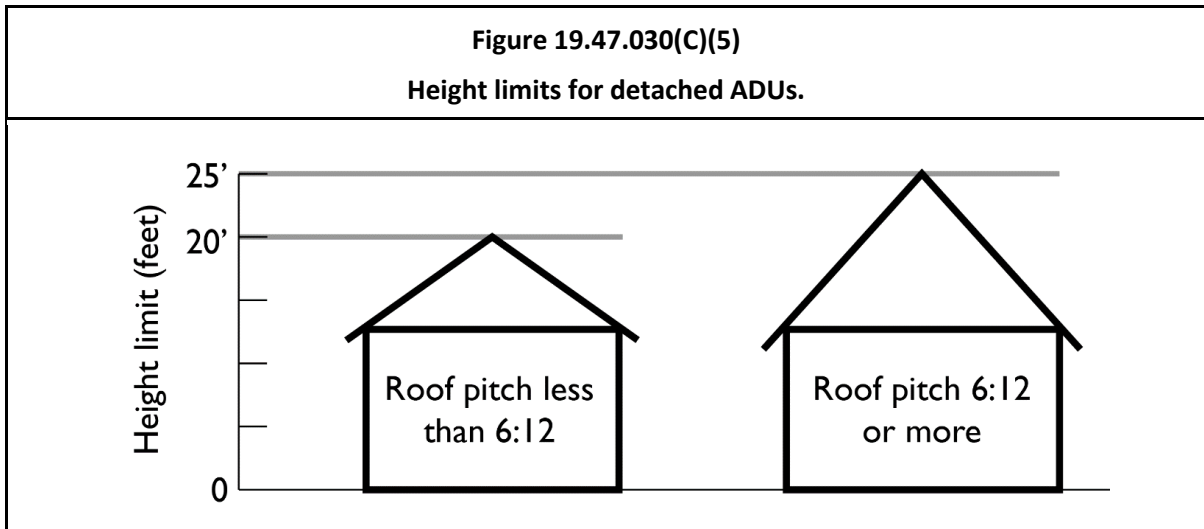
1. Add affordable units to existing housing and make housing units available to moderate-income people who might otherwise have difficulty finding homes within the city.
2. Promote the development of additional housing options in residential neighborhoods that are appropriate for people at a variety of stages of their lives.
3. Provide homeowners with a means of obtaining, through tenants in either the accessory dwelling unit or the principal residence, rental income, companionship, or security.
4. Protect neighborhood stability, property values, and the character of the neighborhood.

C. Standards and criteria.

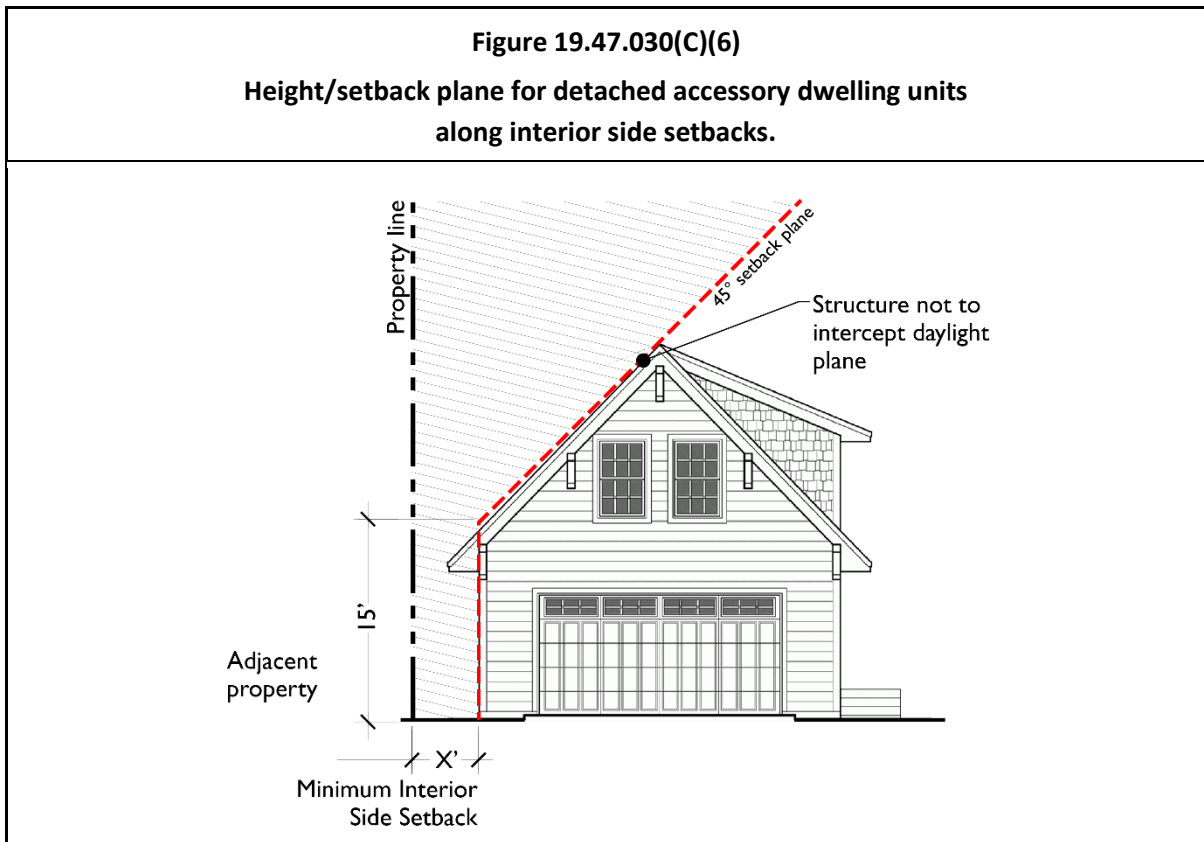
1. When and where permitted: An ADU may be established in any zone on a lot with a single-family residence. An ADU may be created by any one or combination of the following methods:
 - a. Alteration of interior space of an existing residence.
 - b. Conversion of an attic, basement, attached or detached garage, or other portion of a residence.
 - c. Addition of a living area enclosed within the principal building.
 - d. Construction of a detached living area.
 - e. Associated with the construction of a new single-family dwelling (where permitted).
2. Number. Each single-family residential unit may have only one ADU.
3. Subdivision. ADUs must not be subdivided or otherwise segregated in ownership from the principal dwelling unit.
4. Maximum size. The ADU may not exceed 900-square-feet gross floor area.
5. Maximum height:
 - a. ADUs enclosed within the principal building are subject to the height limits for the applicable zone in Tables 19.42.020-030.
 - b. Height limits for detached ADUs are:

- i. 20-feet where the roof pitch is less than 6:12.
- ii. 25-feet where the roof pitch is 6:12 or greater.

Exception: ADU height and roof pitch adjustments may be needed for structures to comply with the 45-degree height/setback plane provisions in subsection (C)(6)(a) below.



6. Minimum setbacks and siting requirements. ADUs enclosed within the principal building are subject to the setback requirements for the applicable zone. Standards for detached ADUs (whether or not they are attached to a garage) are subject to the following setback requirements:
 - a. Minimum interior side setback: Five-feet, except that from a height of 15-feet at the five-foot minimum interior side setback, buildings must step back at a 45-degree angle away from the interior side or rear property line as shown in Figure 19.47.030(C)(6) below.
 - b. Minimum rear setback (to alley property line): Zero-feet, except where garage doors or a carport faces the alley, the structure must be set back a minimum of ten-feet from the alley property line to allow adequate turning distance for vehicles.
 - c. Detached ADUs must be located consistent with the minimum usable open space standards of AMC 19.43.010(C)(3)(c), regardless of lot size.



7. Living facilities. At a minimum, an accessory dwelling unit includes a bathroom, a kitchen, and separate exterior access.
8. Parking. A minimum of three parking spaces must be provided for the principal and accessory dwelling units. Where on-street parking is available abutting the lot, only two off-street spaces must be provided for the principal and accessory dwelling units.
9. Entrance. The entrance to the ADU must not be on the same side of the structure as the entrance to the principal residence, except when such entrance is not visible from the street as determined by the director.

Exception: If an ADU is created within an existing residence which already has more than one existing exterior door on the same side, an existing door may be utilized for the ADU.

10. Owner occupancy.
 - a. Either the principle or accessory dwelling unit must be occupied by an owner of the property for six or more months of each calendar year as the owner's permanent residence. "Owners" include title holders and contract purchasers. The applicant must record a notice against the property title with the county auditor, on forms provided by the department, describing this requirement.
 - b. The Director may waive the requirement of subsection (a) for up to three years if a letter is submitted that provides evidence of good cause for the waiver. Good cause may include job dislocation, military deployment, sabbatical leave, education, or illness.

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1337

Chapter 334, Laws of 2023

(partial veto)

68th Legislature
2023 Regular Session

GROWTH MANAGEMENT ACT—ACCESSORY DWELLING UNITS—URBAN GROWTH AREAS

EFFECTIVE DATE: July 23, 2023

Passed by the House April 14, 2023
Yeas 85 Nays 11

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 6, 2023
Yeas 39 Nays 7

DENNY HECK

President of the Senate

Approved May 8, 2023 1:13 PM with the
exception of section 5, which is
vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the
House of Representatives of the
State of Washington, do hereby
certify that the attached is
ENGROSSED HOUSE BILL 1337 as passed
by the House of Representatives and
the Senate on the dates hereon set
forth.

BERNARD DEAN

Chief Clerk

FILED

May 10, 2023

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1337

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Representatives Gregerson, Barkis, Berry, Christian, Duerr, Fitzgibbon, Taylor, Ramel, Reeves, Simmons, Walen, Graham, Bateman, Reed, Lekanoff, Doglio, Tharinger, Cortes, Macri, and Stonier

Read first time 01/16/23. Referred to Committee on Housing.

1 AN ACT Relating to expanding housing options by easing barriers
2 to the construction and use of accessory dwelling units; amending RCW
3 36.70A.696, 43.21C.495, and 36.70A.280; adding new sections to
4 chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; adding
5 a new section to chapter 64.32 RCW; adding a new section to chapter
6 64.38 RCW; adding a new section to chapter 64.90 RCW; creating a new
7 section; and repealing RCW 35.63.210, 35A.63.230, 36.70A.400,
8 36.70.677, and 43.63A.215.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** (1) The legislature makes the following
11 findings:

12 (a) Washington state is experiencing a housing affordability
13 crisis. Many communities across the state are in need of more housing
14 for renters across the income spectrum.

15 (b) Many cities dedicate the majority of residentially zoned land
16 to single detached houses that are increasingly financially out of
17 reach for many households. Due to their smaller size, accessory
18 dwelling units can provide a more affordable housing option in those
19 single-family zones.

20 (c) Localities can start to correct for historic economic and
21 racial exclusion in single-family zones by opening up these

1 neighborhoods to more diverse housing types, including accessory
2 dwelling units, that provide lower cost homes. Increasing housing
3 options in expensive, high-opportunity neighborhoods will give more
4 families access to schools, parks, and other public amenities
5 otherwise accessible to only the wealthy.

6 (d) Accessory dwelling units are frequently rented below market
7 rate, providing additional affordable housing options for renters.

8 (e) Accessory dwelling units can also help to provide housing for
9 very low-income households. More than 10 percent of accessory
10 dwelling units in some areas are occupied by tenants who pay no rent
11 at all; among these tenants are grandparents, adult children, family
12 members with disabilities, friends going through life transitions,
13 and community members in need. Accessory dwelling units meet the
14 needs of these people who might otherwise require subsidized housing
15 space and resources.

16 (f) Accessory dwelling units can meet the needs of Washington's
17 growing senior population, making it possible for this population to
18 age in their communities by offering senior-friendly housing, which
19 prioritizes physical accessibility, in walkable communities near
20 amenities essential to successful aging in place, including transit
21 and grocery stores, without requiring costly renovations of existing
22 housing stock.

23 (g) Homeowners who add an accessory dwelling unit may benefit
24 from added income and an increased sense of security.

25 (h) Accessory dwelling units provide environmental benefits. On
26 average they are more energy efficient than single detached houses,
27 and they incentivize adaptive reuse of existing homes and materials.

28 (i) Siting accessory dwelling units near transit hubs, employment
29 centers, and public amenities can help to reduce greenhouse gas
30 emissions by increasing walkability, shortening household commutes,
31 and curtailing sprawl.

32 (2) The legislature intends to promote and encourage the creation
33 of accessory dwelling units as a means to address the need for
34 additional affordable housing options.

35 **Sec. 2.** RCW 36.70A.696 and 2021 c 306 s 2 are each amended to
36 read as follows:

37 The definitions in this section apply throughout RCW 36.70A.697
38 ~~((and)),~~ 36.70A.698, and sections 3 and 4 of this act unless the
39 context clearly requires otherwise.

1 (1) "Accessory dwelling unit" means a dwelling unit located on
2 the same lot as a single-family housing unit, duplex, triplex,
3 townhome, or other housing unit.

4 (2) "Attached accessory dwelling unit" means an accessory
5 dwelling unit located within or attached to a single-family housing
6 unit, duplex, triplex, townhome, or other housing unit.

7 (3) "City" means any city, code city, and town located in a
8 county planning under RCW 36.70A.040.

9 (4) "County" means any county planning under RCW 36.70A.040.

10 (5) "Detached accessory dwelling unit" means an accessory
11 dwelling unit that consists partly or entirely of a building that is
12 separate and detached from a single-family housing unit, duplex,
13 triplex, townhome, or other housing unit and is on the same property.

14 (6) "Dwelling unit" means a residential living unit that provides
15 complete independent living facilities for one or more persons and
16 that includes permanent provisions for living, sleeping, eating,
17 cooking, and sanitation.

18 (7) "Gross floor area" means the interior habitable area of a
19 dwelling unit including basements and attics but not including a
20 garage or accessory structure.

21 (8) "Major transit stop" means:

22 (a) A stop on a high capacity transportation system funded or
23 expanded under the provisions of chapter 81.104 RCW;

24 (b) Commuter rail stops;

25 (c) Stops on rail or fixed guideway systems, including
26 transitways;

27 (d) Stops on bus rapid transit routes or routes that run on high
28 occupancy vehicle lanes; or

29 (e) Stops for a bus or other transit mode providing actual fixed
30 route service at intervals of at least fifteen minutes for at least
31 five hours during the peak hours of operation on weekdays.

32 ~~((+8))~~ (9) "Owner" means any person who has at least 50 percent
33 ownership in a property on which an accessory dwelling unit is
34 located.

35 ~~((+9))~~ (10) "Principal unit" means the single-family housing
36 unit, duplex, triplex, townhome, or other housing unit located on the
37 same lot as an accessory dwelling unit.

38 (11) "Short-term rental" means a lodging use, that is not a hotel
39 or motel or bed and breakfast, in which a dwelling unit, or portion

thereof, is offered or provided to a guest by a short-term rental operator for a fee for fewer than 30 consecutive nights.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW to read as follows:

(1)(a) Cities and counties planning under this chapter must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of this section and of section 4 of this act, to take effect six months after the jurisdiction's next periodic comprehensive plan update required under RCW 36.70A.130.

(b) In any city or county that has not adopted or amended ordinances, regulations, or other official controls as required under this section, the requirements of this section and section 4 of this act supersede, preempt, and invalidate any conflicting local development regulations.

(2) Ordinances, development regulations, and other official controls adopted or amended pursuant to this section and section 4 of this act must only apply in the portions of towns, cities, and counties that are within urban growth areas designated under this chapter.

(3) Any action taken by a city or county to comply with the requirements of this section or section 4 of this act is not subject to legal challenge under this chapter or chapter 43.21C RCW.

(4) Nothing in this section or section 4 of this act requires or authorizes a city or county to authorize the construction of an accessory dwelling unit in a location where development is restricted under other laws, rules, or ordinances as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property.

(5) Nothing in this section or in section 4 of this act prohibits a city or county from:

(a) Restricting the use of accessory dwelling units for short-term rentals;

(b) Applying public health, safety, building code, and environmental permitting requirements to an accessory dwelling unit that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater;

(c) Applying generally applicable development regulations to the construction of an accessory unit, except when the application of

1 such regulations would be contrary to this section or to section 4 of
2 this act;

3 (d) Prohibiting the construction of accessory dwelling units on
4 lots that are not connected to or served by public sewers; or

5 (e) Prohibiting or restricting the construction of accessory
6 dwelling units in residential zones with a density of one dwelling
7 unit per acre or less that are within areas designated as wetlands,
8 fish and wildlife habitats, flood plains, or geologically hazardous
9 areas.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
11 RCW to read as follows:

12 (1) In addition to ordinances, development regulations, and other
13 official controls adopted or amended to comply with this section and
14 section 3 of this act, a city or county must comply with all of the
15 following policies:

16 (a) The city or county may not assess impact fees on the
17 construction of accessory dwelling units that are greater than 50
18 percent of the impact fees that would be imposed on the principal
19 unit;

20 (b) The city or county may not require the owner of a lot on
21 which there is an accessory dwelling unit to reside in or occupy the
22 accessory dwelling unit or another housing unit on the same lot;

23 (c) The city or county must allow at least two accessory dwelling
24 units on all lots that are located in all zoning districts within an
25 urban growth area that allow for single-family homes in the following
26 configurations:

27 (i) One attached accessory dwelling unit and one detached
28 accessory dwelling unit;

29 (ii) Two attached accessory dwelling units; or

30 (iii) Two detached accessory dwelling units, which may be
31 comprised of either one or two detached structures;

32 (d) The city or county must permit accessory dwelling units in
33 structures detached from the principal unit;

34 (e) The city or county must allow an accessory dwelling unit on
35 any lot that meets the minimum lot size required for the principal
36 unit;

37 (f) The city or county may not establish a maximum gross floor
38 area requirement for accessory dwelling units that is less than 1,000
39 square feet;

1 (g) The city or county may not establish roof height limits on an
2 accessory dwelling unit of less than 24 feet, unless the height
3 limitation that applies to the principal unit is less than 24 feet,
4 in which case a city or county may not impose roof height limitation
5 on accessory dwelling units that is less than the height limitation
6 that applies to the principal unit;

7 (h) A city or county may not impose setback requirements, yard
8 coverage limits, tree retention mandates, restrictions on entry door
9 locations, aesthetic requirements, or requirements for design review
10 for accessory dwelling units that are more restrictive than those for
11 principal units;

12 (i) A city or county must allow detached accessory dwelling units
13 to be sited at a lot line if the lot line abuts a public alley,
14 unless the city or county routinely plows snow on the public alley;

15 (j) A city or county must allow accessory dwelling units to be
16 converted from existing structures, including but not limited to
17 detached garages, even if they violate current code requirements for
18 setbacks or lot coverage;

19 (k) A city or county may not prohibit the sale or other
20 conveyance of a condominium unit independently of a principal unit
21 solely on the grounds that the condominium unit was originally built
22 as an accessory dwelling unit; and

23 (l) A city or county may not require public street improvements
24 as a condition of permitting accessory dwelling units.

25 (2)(a) A city or county subject to the requirements of this
26 section may not:

27 (i) Require off-street parking as a condition of permitting
28 development of accessory dwelling units within one-half mile walking
29 distance of a major transit stop;

30 (ii) Require more than one off-street parking space per unit as a
31 condition of permitting development of accessory dwelling units on
32 lots smaller than 6,000 square feet before any zero lot line
33 subdivisions or lot splits; and

34 (iii) Require more than two off-street parking spaces per unit as
35 a condition of permitting development of accessory dwelling units on
36 lots greater than 6,000 square feet before any zero lot line
37 subdivisions or lot splits.

38 (b) The provisions of (a) of this subsection do not apply:

39 (i) If a local government submits to the department an empirical
40 study prepared by a credentialed transportation or land use planning

expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of (a) of this subsection for accessory dwelling units will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. The department must develop guidance to assist cities and counties on items to include in the study; or

(ii) To portions of cities within a one mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(3) When regulating accessory dwelling units, cities and counties may impose a limit of two accessory dwelling units, in addition to the principal unit, on a residential lot of 2,000 square feet or less.

(4) The provisions of this section do not apply to lots designated with critical areas or their buffers as designated in RCW 36.70A.060, or to a watershed serving a reservoir for potable water if that watershed is or was listed, as of the effective date of this section, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)).

***NEW SECTION. Sec. 5. A new section is added to chapter 36.70A RCW to read as follows:**

To encourage the use of accessory dwelling units for long-term housing, cities and counties may adopt ordinances, development regulations, and other official controls which waive or defer fees, including impact fees, defer the payment of taxes, or waive specific regulations. Cities and counties may only offer such reduced or deferred fees, deferred taxes, waivers, or other incentives for the development or construction of accessory dwelling units if:

(1) The units are located within an urban growth area; and

(2) The units are subject to a program adopted by the city or county with effective binding commitments or covenants that the units will be primarily utilized for long-term housing consistent with the public purpose for this authorization.

****Sec. 5 was vetoed. See message at end of chapter.***

Sec. 6. RCW 43.21C.495 and 2022 c 246 s 3 are each amended to read as follows:

1 (1) Adoption of ordinances, development regulations and
2 amendments to such regulations, and other nonproject actions taken by
3 a city to implement: The actions specified in section 2, chapter 246,
4 Laws of 2022 unless the adoption of such ordinances, development
5 regulations and amendments to such regulations, or other nonproject
6 actions has a probable significant adverse impact on fish habitat;
7 and the increased residential building capacity actions identified in
8 RCW 36.70A.600(1), with the exception of the action specified in RCW
9 36.70A.600(1)(f), are not subject to administrative or judicial
10 appeals under this chapter.

11 (2) Adoption of ordinances, development regulations and
12 amendments to such regulations, and other nonproject actions taken by
13 a city or county consistent with the requirements of sections 3 and 4
14 of this act are not subject to administrative or judicial appeals
15 under this chapter.

16 **Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
17 read as follows:

18 (1) The growth management hearings board shall hear and determine
19 only those petitions alleging either:

20 (a) That, except as provided otherwise by this subsection, a
21 state agency, county, or city planning under this chapter is not in
22 compliance with the requirements of this chapter, chapter 90.58 RCW
23 as it relates to the adoption of shoreline master programs or
24 amendments thereto, or chapter 43.21C RCW as it relates to plans,
25 development regulations, or amendments, adopted under RCW 36.70A.040
26 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
27 to hear petitions alleging noncompliance ~~((with RCW 36.70A.5801))~~
28 based on a city or county's actions taken to implement the
29 requirements of sections 3 and 4 of this act within an urban growth
30 area;

31 (b) That the ~~((twenty-))~~ 20-year growth management planning
32 population projections adopted by the office of financial management
33 pursuant to RCW 43.62.035 should be adjusted;

34 (c) That the approval of a work plan adopted under RCW
35 36.70A.735(1)(a) is not in compliance with the requirements of the
36 program established under RCW 36.70A.710;

37 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
38 regionally applicable and cannot be adopted, wholly or partially, by
39 another jurisdiction; or

1 (e) That a department certification under RCW 36.70A.735(1)(c) is
2 erroneous.

3 (2) A petition may be filed only by: (a) The state, or a county
4 or city that plans under this chapter; (b) a person who has
5 participated orally or in writing before the county or city regarding
6 the matter on which a review is being requested; (c) a person who is
7 certified by the governor within (~~sixty~~) 60 days of filing the
8 request with the board; or (d) a person qualified pursuant to RCW
9 34.05.530.

10 (3) For purposes of this section "person" means any individual,
11 partnership, corporation, association, state agency, governmental
12 subdivision or unit thereof, or public or private organization or
13 entity of any character.

14 (4) To establish participation standing under subsection (2)(b)
15 of this section, a person must show that his or her participation
16 before the county or city was reasonably related to the person's
17 issue as presented to the board.

18 (5) When considering a possible adjustment to a growth management
19 planning population projection prepared by the office of financial
20 management, the board shall consider the implications of any such
21 adjustment to the population forecast for the entire state.

22 The rationale for any adjustment that is adopted by the board
23 must be documented and filed with the office of financial management
24 within ten working days after adoption.

25 If adjusted by the board, a county growth management planning
26 population projection shall only be used for the planning purposes
27 set forth in this chapter and shall be known as the "board adjusted
28 population projection." None of these changes shall affect the
29 official state and county population forecasts prepared by the office
30 of financial management, which shall continue to be used for state
31 budget and planning purposes.

32 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A
33 RCW to read as follows:

34 (1) By December 31, 2023, the department must revise its
35 recommendations for encouraging accessory dwelling units to include
36 the provisions of sections 3 and 4 of this act.

37 (2) During each comprehensive plan review required by RCW
38 36.70A.130, the department must review local government comprehensive
39 plans and development regulations for compliance with sections 3 and

1 4 of this act and the department's recommendations under subsection
2 (1) of this section.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 64.34
4 RCW to read as follows:

5 (1) Except a declaration created to protect public health and
6 safety, and ground and surface waters from on-site wastewater, a
7 declaration created after the effective date of this section and
8 applicable to a property located within an urban growth area may not
9 impose any restriction or prohibition on the construction,
10 development, or use on a lot of an accessory dwelling unit that the
11 city or county in which the urban growth area is located would be
12 prohibited from imposing under section 4 of this act.

13 (2) For the purposes of this section, "urban growth area" has the
14 same meaning as in RCW 36.70A.030.

15 (3) A city or county issuing a permit for the construction of an
16 accessory dwelling unit may not be held civilly liable on the basis
17 that the construction of the accessory dwelling unit would violate a
18 restrictive covenant or deed restriction.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 64.32
20 RCW to read as follows:

21 (1) Except a declaration created to protect public health and
22 safety, and ground and surface waters from on-site wastewater, a
23 declaration created after the effective date of this section and
24 applicable to a property located within an urban growth area may not
25 impose any restriction or prohibition on the construction,
26 development, or use on a lot of an accessory dwelling unit that the
27 city or county in which the urban growth area is located would be
28 prohibited from imposing under section 4 of this act.

29 (2) For the purposes of this section, "urban growth area" has the
30 same meaning as in RCW 36.70A.030.

31 (3) A city or county issuing a permit for the construction of an
32 accessory dwelling unit may not be held civilly liable on the basis
33 that the construction of the accessory dwelling unit would violate a
34 restrictive covenant or deed restriction.

35 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.38
36 RCW to read as follows:

(1) Except governing documents of associations created to protect public health and safety, and ground and surface waters from on-site wastewater, governing documents of associations created after the effective date of this section and applicable to a property located within an urban growth area may not impose any restriction or prohibition on the construction, development, or use on a lot of an accessory dwelling unit that the city or county in which the urban growth area is located would be prohibited from imposing under section 4 of this act.

(2) For the purposes of this section, "urban growth area" has the same meaning as in RCW 36.70A.030.

(3) A city or county issuing a permit for the construction of an accessory dwelling unit may not be held civilly liable on the basis that the construction of the accessory dwelling unit would violate a restrictive covenant or deed restriction.

NEW SECTION. **Sec. 12.** A new section is added to chapter 64.90 RCW to read as follows:

(1) Except declarations and governing documents of common interest communities created to protect public health and safety, and ground and surface waters from on-site wastewater, declarations and governing documents of common interest communities created after the effective date of this section and applicable to a property located within an urban growth area may not impose any restriction or prohibition on the construction, development, or use on a lot of an accessory dwelling unit that the city or county in which the urban growth area is located would be prohibited from imposing under section 4 of this act.

(2) For the purposes of this section, "urban growth area" has the same meaning as in RCW 36.70A.030.

(3) A city or county issuing a permit for the construction of an accessory dwelling unit may not be held civilly liable on the basis that the construction of the accessory dwelling unit would violate a restrictive covenant or deed restriction.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

(1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;

(2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;

(3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;

1 (4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and
2 (5) RCW 43.63A.215 (Accessory apartments—Development and
3 placement—Local governments) and 1993 c 478 s 7.

Passed by the House April 14, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor May 8, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 5, Engrossed House Bill No. 1337 entitled:

"AN ACT Relating to expanding housing options by easing barriers to the construction and use of accessory dwelling units."

Section 5 of the bill gives local governments authority to waive or defer fees, defer payment of taxes, or waive other regulations for the development of accessory dwelling units (ADUs) if specified conditions are met. The specified conditions are that the ADU must be located within an urban growth area, and the ADU must be subject to a locally adopted covenant program ensuring that the ADU will be primarily utilized for long-term housing. Current law allows local governments to waive fees, taxes, and to establish various incentives for the construction of ADUs without requiring the creation of a local covenant program. The administrative costs necessary to administer a new covenant program for ADUs may cause some cities to discontinue current incentive programs.

For these reasons I have vetoed Section 5 of Engrossed House Bill No. 1337.

With the exception of Section 5, Engrossed House Bill No. 1337 is approved."

--- END ---



Washington State
Department of
Commerce

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Guidance for Accessory Dwelling Units in Washington State

**GROWTH MANAGEMENT
SERVICES**

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Disclaimer

This publication offers guidance for Washington local governments in implementing HB 1337 (laws of 2023) and encourages the creation of new accessory dwelling units (ADUs). It does not constitute legal advice, and is not a substitute for the legal advice of an attorney. Users of this publication should contact their own legal counsel regarding their legal rights or any other legal issue.

Also, many of the examples are from current municipal codes which may not yet be consistent with the provisions of HB 1337.

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Introduction

Allowing more accessory dwelling units (ADUs) encourages housing construction and increases the overall supply and variety of housing options, helping address the challenges posed statewide by insufficient housing.

HB 1337, passed in 2023, requires jurisdictions to allow two ADUs per lot within urban growth areas (UGAs) by six months after the next periodic update due date. The Washington State Department of Commerce (Commerce) presents this publication as an update to the agency's 1994 guidance to assist local governments in implementing this requirement. The objective is to provide information on the requirements, local policy choices, and examples of approaches for consideration by cities, towns, and counties, in accordance with the bill. This guidance is structured into the following sections:

- **Requirements** for cities and other urban areas.
- Recommendations for cities and other urban areas.
- Key considerations for counties (rural and resource lands).
- Other programmatic elements to consider.

This document provides detail on the state law and local policy choices. Please note that throughout this document quoted state laws are **bolded**.

Benefits of ADUs

Construction of new ADUs has many benefits, including to:

- Add to the diversity of housing options.
- Provide a housing type that blends in well with existing low density residential neighborhoods.
- Cater to our state's changing demographics, including more seniors and smaller household sizes.
- Provide housing that is typically more affordable than traditional detached single-family homes.
- Add housing units without expanding urban growth areas.
- Correct historic economic and racial exclusion by opening up single-family neighborhoods to more diverse housing and household types.
- Reduce climate impacts because ADUs tend to be smaller and use less energy than traditional single-family homes.
- Use existing infrastructure such as sewer, water and streets.

For these reasons, ADUs can be an effective and "gentle" way of helping to accommodate the state's growing population.

Definitions

Local governments should review their development regulation definitions to ensure consistency with [RCW 36.70A.696](#), as amended. This will help facilitate consistent implementation of these requirements and reduce the need for interpretation due to missing or outdated definitions.

Accessory Dwelling Unit (ADU)

A dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome or other housing unit.

Attached ADU

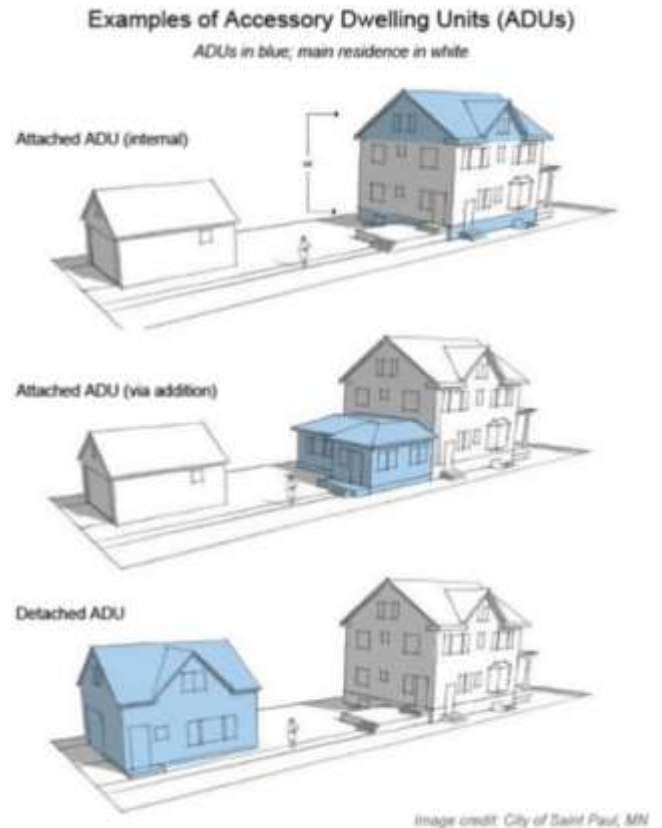
An ADU located within or attached to a single-family housing unit, duplex, triplex, townhome, or other housing unit.

Detached ADU

An ADU that consists partly or entirely of a building that is separate and detached from a single-family housing unit, duplex, triplex, townhome or other housing unit and is on the same property.

Dwelling Unit

A residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking and sanitation.





Basement attached ADU example, with attached ADU entrance on the side of the structure. Credit: Steve Butler.

Legal History of ADU Policy in Washington State

As required by the 1993 Washington Housing Policy Act, Commerce made recommendations to encourage development and placement of ADUs, published in 1994 as the [Model ADU Ordinance Recommendations](#). The Act required cities of over 20,000 population and counties of over 125,000 population, planning under the Growth Management Act to incorporate the Commerce recommendations into their zoning and development regulations. To allow local flexibility, the recommendations were subject to local regulations, conditions, procedures, and limitations.

In 2019, the state Legislature found that Washington State had a housing affordability crisis and sought to promote and encourage the creation of ADUs. Commerce offered a grant program¹ to encourage cities to adopt regulations to increase housing supply, including to: (1) authorize ADUs in one or more zoning district in which they are currently prohibited; (2) remove minimum parking requirements; (3) remove owner occupancy requirements; (4) adopt new square footage requirements that are less restrictive than existing requirements; and (5) develop a local program that offers homeowners a combination of financing, design, permitting or construction support to build ADUs.²

In 2020, the legislature adopted restrictions on how much off-street parking local governments could require for ADUs near transit stops. As a result, cities that fully plan under the GMA could not require off-street parking for ADUs within a quarter mile of a major transit stop, with certain limited exceptions.³

In 2021, the legislature amended [RCW 36.70A.070](#)(2)⁴ to require all cities and counties that fully plan under the GMA to "consider the role of accessory dwelling units in meeting housing needs." In addition, Section 7 of the bill stated that cities and counties "should consider" certain policies to encourage the construction of ADUs. Governor Jay Inslee vetoed this section because it did not specifically limit the policies to lands within urban

¹ This is codified in [RCW 36.70A.600](#).

² [RCW 36.70A.600](#)(1)(n), (o), (p), (q) and (x), passed in 2019, and updated in 2020 to this current list of options.

³ [RCW 36.70A.698](#)

⁴ See [HB 1220](#).

growth areas. The Governor’s veto illustrates a fundamental point: While there is little doubt that local governments should encourage ADUs in cities and UGAs, very different considerations come into play with respect to county rural and resource lands.

In 2023, [HB 1337](#) amended RCW 36.70A to add significant changes to local government roles for regulating ADUs. Within urban growth areas, cities and counties:

- Must allow two ADUs per residential lot. They may be attached, detached, or a combination of both, or may be conversions of existing structures.
- May not require the owner to occupy the property, and may not prohibit sale as independent units.
- May not charge more than 50% of impact fees charged for the principal unit.
- Must allow an ADU of at least 1,000 square feet and must adjust zoning to be consistent with the bill for things such as height, setbacks, and other regulations.
- Must set consistent parking requirements based on distance from transit and lot size.

If a city or county does not amend its rules to be consistent with the law, the statute will "**supersede, preempt and invalidate any conflicting local development regulations.**"⁵

Other new provisions in HB 1337

- Actions taken by a city or county to comply with new requirements are exempt from legal challenge under GMA or SEPA.⁶
- Cities and counties are not required to authorize the construction of an ADU where development is restricted under rules as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property.⁷
- Cities and counties may restrict the use of ADUs for short term rentals.⁸
- Cities and counties may apply public health, safety, building code, and environmental permitting requirements to an ADU that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater.⁹
- ADUs are not required to be allowed on lots with critical areas, or around SeaTac airport.¹⁰
- Local governments are protected from civil liability if they issue a permit for an ADU on a lot with a covenant or deed restricting ADUs.¹¹

⁵ RCW 36.70A.680(1)(b), RCW 36.70A.697(2)

⁶ [RCW 36.70A.680\(3\)](#)

⁷ RCW 36.70A.680(4)

⁸ RCW 36.70A.680(5)

⁹ RCW 36.70A.680(5)

¹⁰ [RCW 36.70A.681\(2\)](#) and (4)

¹¹ [RCW 64.34.120\(3\)](#)



Detached ADU/"Carriage House" in Portland. Credit: Radcliffe Dacannay, Radworld (Creative Commons).

Requirements for cities and urban growth areas

1. Allow two ADUs per lot

Allowing ADUs in residential neighborhoods creates additional housing options and gives homeowners greater flexibility by providing rental income or a place for they or their family members to age in place.

State law

Within urban growth areas, cities and counties must allow two ADUs on all lots in zoning districts that allow for single-family homes.¹² The ADUs may be:

- Two attached ADUs such as unit in a basement, attic, or garage;
- One attached ADU and one detached ADU; or
- Two detached ADUs, which may be comprised of either one or two detached structures.
- A conversion of an existing structure, such as a detached garage.¹³

When lots are small

Cities and counties must allow an ADU on any lot that meets the minimum lot size required for the principal unit.¹⁴ Minimum lot sizes set the base lot size for development as part of a subdivision process. To support more ADU development, local governments should reduce or eliminate minimum lot size requirements for

¹² RCW 36.70A.681(1)(c)

¹³ RCW 36.70A.681(1)(j)

¹⁴ [RCW 36.70A.681\(1\)\(e\)](#) states that an ADU must be allowed if the lot meets minimum size for the principal unit. RCW 36.70A.681(3) states that cities and counties may set a limit of two ADUs, on a residential lot of 2,000 square feet or less. However, if two ADUs are allowed on lots that meet the minimum lot size, 2,000 SF is not generally going to be a standard lot size and may not have space for even one ADU.

ADUs with existing development and allow ADUs on all lots. Where lots are smaller than the minimum allowed by the zone, cities may choose to rely on the capacity of the lot, sewer, septic, parking, and landscaping or other regulations to set the limits on one or two ADUs.

Examples

- [Enumclaw Municipal Code Sec. 19.34.050](#): Allows ADUs on lots of any size.
- [Kenmore Municipal Code Sec. 18.73.100](#): Does not require a minimum lot size for ADUs.
- [Renton Municipal Code Sec. 4-2-110C](#): Permits ADUs on lots 3,000 square feet or less.

Restricted development locations

Cities and counties are not authorized to allow construction of ADUs in locations where development is restricted under other laws, rules, or ordinances due to physical proximity to on-site sewage system infrastructure, critical areas or other unsuitable physical characteristics of a property.¹⁵ This includes critical areas protection standards, such as buffers and setbacks, as well as associated environmental permitting review and process requirements. In short, cities and counties should apply the same public health, safety, building code and environmental permitting requirements to an ADU that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater. The provisions of HB 1337 provide no authority to override local ordinances that address public health and safety.

Cities and counties may restrict ADU development:

- **Within areas designated as critical areas** (see below).
- In shoreline areas so designated under a shoreline master program (see below).
- **On lots in a watershed serving a reservoir for potable water if that watershed is or was listed, as of July 1, 2023, as impaired or threatened under Section 303(d) of the federal Clean Water Act (33 U.S.C. Sec. 1313(d)).**¹⁶
- **In zones with a density of one dwelling unit per acre or less that are in critical areas, designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas.**¹⁷ Generally any zones with such low densities within UGAs are so designated to protect the critical area, so adding additional development in the form of an ADU is not consistent with this exception.
- **Within a mile radius of SeaTac airport.**¹⁸

For areas without sewer

- **Cities/counties may prohibit ADUs on properties not served by sewers.**
- Septic and related wastewater rules to protect water-quality located in local health codes and 246-272A and -272B WAC continue to apply to on-site systems for ADUs.
- The Department of Health expects attached ADUs to be more likely to be connected to the same septic system as the primary single family residence since they are easier to build compliant with Department of Health rules. The septic system needs to be designed to accommodate this additional wastewater flow.
- Detached ADUs could, depending on local rules, be served by a separate septic system. The requirements, including horizontal setback and maximum density requirements of the rule(s) would apply.

¹⁵ <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-planners-toolbox>

¹⁶ [RCW 36.70A.681\(4\)](#)

¹⁷ [RCW 36.70A.680\(5\)](#)

¹⁸ [RCW 36.70A.681\(2\)](#)

- In areas where sewers are likely to be built in the future, plan reviewers may want to take measures to accommodate the eventual conversion from septic systems to sewer.

Critical areas

Cities and counties shall limit ADU development as necessary to meet critical areas protection standards. All ADU development must be reviewed for consistency with critical area protection ordinance provisions, and shall only be allowed when consistent. Critical areas include:

- Wetlands, and fish and wildlife habitat conservation areas provide critical ecological functions. They are protected for their intrinsic values and no additional development is appropriate. Internal conversions of existing space to an ADU may be permissible, provided all other protections are observed.
- Floodplains and geologically hazardous areas are identified as hazard areas that may pose dangers to life safety and property. Most local jurisdictions allow some development in floodplains and geologically hazardous areas. However, the development must go through a detailed review process that provides analysis of the site-specific conditions and the proposed development, supported by reports from certified experts such as geologists and engineers.
- Critical aquifer recharge areas (CARAs), which are important to allow groundwater to recharge aquifers used for drinking water. In these areas, regulations generally protect against hazardous uses and ensure impervious surfaces do not restrict groundwater recharge. ADU development over CARAs may be allowed if it can be demonstrated they will not impact potable water.

While ADUs shall be allowed in residential neighborhoods within the UGA, in geohazard and wetland areas they must be designed and located to avoid critical area impacts consistent with the mitigation sequence,¹⁹ which includes to:

- Avoid the impact altogether by not taking a certain action or parts of an action.
- Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
- Rectify the impact by repairing, rehabilitating or restoring the affected environment.
- Reduce or eliminate the impact over time through preservation and maintenance operations during the life of the action.
- Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
- Monitor the impact and taking appropriate corrective measures.

Reasonable use exceptions

Detached ADUs are not necessary for reasonable residential use within critical areas and should not be allowed within critical areas or their buffers under reasonable use exceptions. It may be possible to convert space within existing homes to create an ADU if no new exterior construction, expansion of the footprint or additional impervious surface is added.

¹⁹ <https://ecology.wa.gov/Water-Shorelines/Wetlands/Mitigation/Avoidance-and-minimization>

ADUs in shorelines under a shoreline master program

Shorelines and shorelands are governed under the city, town, or county's Shoreline Master Program (SMP). Although residential uses are allowed in many shoreline environment designations (SEDs), ADUs may not be appropriate in all SEDs. The ADU requirements outlined in HB 1337 are intended to apply within the UGA governed under the Growth Management Act and are not automatically applicable within the shoreline jurisdiction governed under the Shoreline Management Act (SMA). Local governments should plan for ADUs located within shoreline jurisdiction during a periodic review of their SMP²⁰. Review and update of an SMP is required every ten years but can be initiated by a local government outside of the required schedule.

Chapter 90.58 RCW, Chapter 173-26 WAC, and Ecology approved local shoreline master programs restrict development under SMA goals, policies, purpose and intent. Within shoreline jurisdiction, zoning code provisions can be applied, but they must be reviewed in addition to the bulk, dimensional, performance, and use standards of the SMP, and all new development and uses, including ADUs, can only be authorized through the shoreline permitting system outlined in Chapter 173-27 WAC.

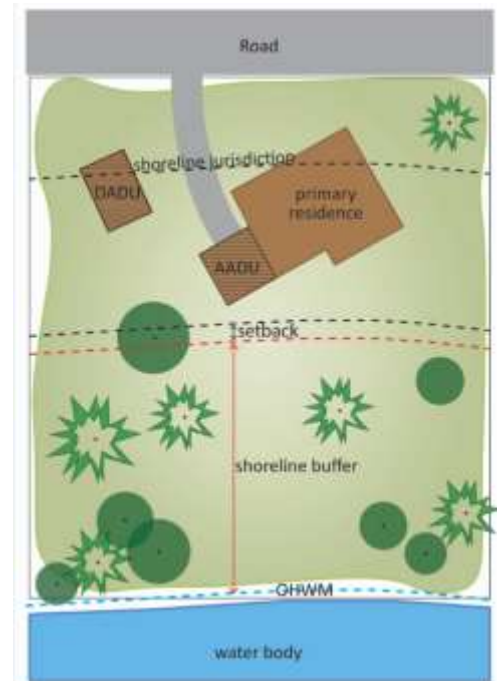
Each SMP contains residential use regulations and development standards which ensure that allowed uses and development remain compatible with the shoreline environment and SMP and allow no net loss of shoreline ecological function. If allowed under the SMP provisions, ADUs would still need to be located outside of all shoreline buffers and setbacks and would need to meet other SMP critical area, density, impervious surface, and vegetation conservation provisions.

ADUs are not necessary for reasonable residential use within shoreline jurisdictions and should not be included as project components in shoreline variance permit applications.

Local governments wanting to address ADUs under the authorities of their SMP should consult Washington State Department of Ecology guidance²¹ and work closely with their [Ecology shoreline planner](https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Contacts).²²

Examples

- [Black Diamond Municipal Code Sec. 18.56.030](#) – Allows two ADUs in conjunction with the primary unit provided adequate provisions for water and sewer are met.
- [Langley Municipal Code Sec. 18.08.095](#) – Allows one attached and one detached ADU on a lot with a single-family dwelling connected to sewer.
- [Burien Municipal Code Sec. 19.17.070](#) – Permits a maximum of two ADUs (one attached and one detached) per detached house.



If allowed, ADUs within shoreline jurisdiction should be outside of buffers and setbacks. Credit: Ecology.

²⁰ The timetable for local governments to develop or amend master programs is required by [RCW 90.58.080](#).

²¹ <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Contacts>

²² <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-planners-toolbox>

2. Do not require owner occupancy

Owner occupancy standards have typically required that a property owner live in either the primary residence or the ADU, however that may limit the ability of the owner to develop or rent an ADU.

State law

Within UGAs, cities and counties may not require the owner of a lot on which there is an ADU to reside in or occupy the ADU or another housing unit on the same lot.²³ RCW 36.70A.696(9) defines owner as any person who has at least 50% ownership in a property on which an ADU is located.

Local policy choice

When a unit is used as a short-term rental (STR), a local government may choose to require an owner to occupy either the primary or an accessory unit. (See the section on short-term rentals.)²⁴

Examples

- [Bremerton Accessory Dwelling Units](#)
- [Kirkland Accessory Dwelling Units](#)
- [Seattle Accessory Dwelling Units](#)
- [Vancouver Accessory Dwelling Units](#)

3. Allow separate sale of ADUs

Because they are smaller and generally more affordable than most typical single-family homes, sales of ADUs as separate units can increase homeownership opportunities for first-time homebuyers and low-income households.

State law

- A city or county may not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an accessory dwelling unit.²⁵ [Washington's Condominium Act](#), which provides for the creation of condominiums, does not preclude ADUs from being created as a part of a condominium development. Here, the unit is individually owned and the remainder of the property is under common ownership. Local governments wanting to regulate how ADUs are converted to a condominium form of ownership should work closely with their legal counsel in reviewing [RCW 64.90.025](#) and other related laws.²⁶

Zero lot line subdivisions and lot splits are mentioned in Section 4(2) of HB 1337, however, there is currently no authorization for lot splits in Washington, creating true independent units for ADUs. SB 5258 amends RCW 58.17.060 to require all cities and towns to adopt procedures for unit lot subdivisions to allow division of a parent lot into separately owned unit lots, or owned in common by the owners of the lots. However, this is better used for developments such as townhouses.

Examples

- [Seattle Annual ADU Report 2022](#) – Addresses ADUs sold as condominiums, highlights the benefits of ADUs as condominiums and the increase in ADUs as condominiums in Seattle since 2018.

²³ RCW 36.70A.681(1)(b)

²⁴ [RCW 36.70A.680\(5\)\(a\)](#)

²⁵ RCW 36.70A.681(1)(k)

²⁶ See additional information on ADUs and condos at [ADUs and Condos: Separating Ownership | Accessory Dwellings](#)

- [City of Snohomish Unit Lot Subdivision](#) - the city provides a handout with criteria and the process for unit lot subdivision.
- [Bellevue unit lot subdivision Web page](#) for townhouses.

4. Set off-street parking requirements consistent with HB 1337

Many lots in established areas aren't large enough to support both an ADU and off-street parking, effectively prohibiting ADU development. This means that ADUs are often limited to larger lots that can accommodate parking and other site features. Removing off-street parking requirements for ADUs can help to open up possibilities for placing ADUs, especially in urban areas with transportation options.

State law

Parking limits for ADUs are subject to the following:

- Off street parking may not be required as a condition of permitting ADUs within one half mile of a major transit stop.²⁷⁻²⁸
- On lots smaller than 6,000 square feet, no more than one off-street parking space may be required per ADU before any zero lot line subdivisions or lot splits.²⁹
- On lots greater than 6,000 square feet, no more than two off-street parking spaces per ADU may be required before any zero lot line subdivisions or lot splits.

Local policy choice

While on-site parking cannot be required within a half mile of a major transit stop, a city may not want to require on-site parking in other types of walkable areas or where on-street parking is sufficient. Cities may also choose to reduce parking requirements from the maximum limits in statute. Because ADUs typically are for one or two people, no more than one parking space may be needed for any lot size, especially in areas with on-street parking.

A parking study

Cities may choose to require more parking if Commerce concurs with a locally-conducted empirical study prepared by a credentialed transportation or land use planning professional that clearly demonstrates that parking consistent with the law would be significantly less safe for pedestrians, bicyclists, or people in vehicles than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses.³⁰ Commerce is required to develop guidance on the contents of the study by the end of 2023.

Related to the issue of off-street parking requirements are garage conversions for ADUs. This type of ADU may be more affordable since the changes are primarily internal to an existing structure, and they're popular with retirees who want to age in place because they generally have "no-step entries." Because **HB 1337 requires cities to allow garage conversions**, and to reduce parking requirements, Commerce recommends that cities allow any replacement parking for the primary residence and ADU to be on driveways or on the street if

²⁷ Under RCW 36.70A.681(2), off-street parking for ADUs is prohibited within 1/2 mile of a major transit stop.

²⁸ Major transit stop is defined in [RCW 36.70A.696](#).

²⁹ This part of statute references zero lot line subdivisions, however, for the purposes of this guidance, this means the ADU is not subject to primary unit parking requirements, even if subdivided from the primary unit.

³⁰ [RCW 36.70A.681\(2\)](#).

possible. Low impact development pervious pavement options may be an offset tool to address additional parking, while also reducing overall site impervious surface area.

Examples

- [Fircrest Municipal Code Sec. 22.58.012](#) – Doesn't require additional off-street parking for ADUs unless the planning director determines there is insufficient on-street parking to satisfy parking demand.
- [Kenmore Municipal Code Sec. 18.73.100](#) – No additional off-street parking spaces are required for an ADU.
- [Sumner Municipal Code Sec. 18.12.030](#) – ADUs created via garage conversion are not required to have off-street parking, as long as there is available on-street parking and the unit is located within half a mile of the Sumner transit station.
- [Kirkland Municipal Code Sec. 115.07](#) – Doesn't require off-street parking for one ADU. On lots with more than one ADU, one space is required, with exceptions (available street parking within 600 feet or property is located within 1/2 mile of frequent transit).



Smith Gillman Cottage converted garage. Credit: CAST architecture.

5. Set maximum size limits at no less than 1,000 SF

Local governments typically enact maximum size limits for buildings to ensure there is enough space on a lot for site features like parking and green space. However, maximum size limits that are too restrictive pose design and use limitations. ADU size limits are typically smaller in urban infill areas than they are for larger greenfield sites. Some cities and other urban areas set a single maximum that is based on square footage, while others couple this standard with a percentage of the primary residence.

State law

ADU size limits must allow a gross floor areas of at least 1,000 square feet within UGAs.³¹ New amendments to RCW 36.70A.969 define "gross floor area" as the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

³¹ [RCW 36.70A.681\(1\)\(f\)](#)

Examples

- [Chelan Municipal Code Sec. 17.20.20](#) – Limits ADUs in its single-family residential district to 1,200 square feet or no more than 50% of the total square footage of the primary residence, whichever is less. The planning director may approve an increased size to efficiently use all floor area if all other standards are met.
- [Kenmore Municipal Code Ch. 18.73](#) – Attached ADUs are limited to 1,000 square feet unless the ADU is proposed for preexisting floor area on a single level of the primary unit. For detached ADUs, maximums are based on lot size.

6. Reduce setbacks for ADUs (especially rear setbacks)

State law

A city or county may not impose setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for ADUs that are more restrictive than those for principal units.³²

A city or county must allow detached ADUs to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley.³³

Setback requirements, which establish the minimum distance from front, side, or rear lot lines, create space between a building and adjacent uses. Some codes establish setbacks for ADUs that mirror those of the principal unit, thereby limiting space for ADUs, especially detached ADUs on small lots. Many urban communities have begun requiring separate, less restrictive setbacks specifically for ADUs. For example, some cities and other urban areas reduce or waive setbacks for detached ADUs alongside and rear lot lines, and alleys.

³² [RCW 36.70A.681\(1\)\(h\)](#).

³³ [RCW 36.70A.681\(1\)\(i\)](#).



Detached ADU over a garage with relaxed rear setback. Credit: Steve Butler.

Examples

- [Bellingham Municipal Code Sec. 20.01.036](#) – Exempts detached ADUs from side and rear yard setbacks when abutting an alley.
- [LaCenter Municipal Code Ch. 18.247](#) – Allows detached ADUs at the rear yard lot line if adjacent to an alley.

Zoning codes should clearly describe ADU standards, which should be at most the same as those for the primary unit. When ADUs are added on a lot, they should fit on the lot, and be consistent with yard coverage limits and tree retention provisions. Stormwater low impact development features such as rain gardens and other bioretention options can be used to define setback areas for an ADU and principal lot, and should be features to support additional units, rather than be barriers.³⁴

7. Limit use of design standards

Design standards often involve ensuring ADUs are compatible with the primary residence through features such as architectural style, window placement, roof form and pitch, and building materials. ADU design standards, however, can have the unanticipated impact of increasing project costs by lengthening the time needed for local ADU project review. ADUs can complement, but need not be exactly the same as the principal unit. Design standards must be clear and objective, should be no more prescriptive than those for single-family

³⁴ Commerce's guidebook: [Incentivizing Low Impact Development \(LID\) Beyond Permit Requirements](#) includes tools and outreach materials that local governments can utilize to encourage developers to go beyond existing stormwater requirements and help reduce site impervious areas.

homes, and may not result in a reduction in density, height, bulk, or scale below the requirements of the underlying zone.³⁵

State law on design standards

A city or county may not impose setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for ADUs that are more restrictive than those for principal units.³⁶

Local governments should minimize the use of ADU design standards. In some cases, standards may be used to address privacy, for example making sure that the ADU's windows are located to preserve privacy between the ADU and neighboring properties or private open space.

[HB 1293](#) (laws of 2023) adds to RCW 36.70A and amends RCW 36.70B to streamline local design review processes, requiring “clear and objective” standards that don’t reduce development capacity otherwise allowed. Any design review process must be conducted concurrently, or otherwise be logically integrated, with the consolidated review and decision process for project permits set forth in RCW 36.70B.120(3). No design review process may include more than one public meeting. A county or city must comply with these requirements beginning six months after its next periodic update required under RCW 36.70A.130. The provisions do not apply to regulations specific to designated landmarks or historic districts established under a local preservation ordinance

Examples

- [Ellensburg Municipal Code Sec. 15.540.040](#) – Does not require ADUs to match the appearance of the primary structure.
- [Sedro Woolley Municipal Code Sec. 17.100.030](#) – Allows the planning director to approve interesting detached ADU designs that are dissimilar from the primary structure.
- [Lacey Municipal Code Sec. 14.23.071](#) – Has minimal design criteria for attached and detached ADUs, though duplex-like designs are not allowed.

³⁵ [RCW 36.70A.630\(2\)](#). Design review guidelines must provide only clear and objective requirements, such that an applicant can ascertain whether a particular building design is permissible.

³⁶ [RCW 36.70A.681\(1\)\(h\)](#).



ADU in the Wedgewood neighborhood of Seattle. Credit: Pam MacRae, [Sightline Institute](#). Used with permission.

8. Allow ADUs of at least 24 feet in height

State law

The city or county may not establish roof height limits on an ADU of less than 24 feet, unless the height limitation on the principal unit is less than 24 feet, in which case, a city or county may not impose roof height limitation ADUs is less than the height limit that applies to the principal unit.³⁷

Cities and other urban areas typically set building height limits to address issues like views and privacy; however, they also limit design options and use land less efficiently. Some communities set one height limit for both the principal unit and ADUs, while others have a separate maximum for ADUs.

Examples

- [Kenmore Municipal Code Sec. 18.73.100](#) – Allows ADUs up to 35 feet.

³⁷ [RCW 36.70A.681\(1\)\(g\)](#).

- [Spokane Municipal Code Sec. 17C.300.130](#) – Has height limits that are more nuanced and relate to the proximity of an ADU to a property line.



Larger, taller detached ADU – 1130 SF. Credit: Eddie Bojorquez/Crest Backyard Homes.

9. Reduce impact fees

Impact fees

Impact fees are one-time charges assessed by a local government against a new development project to help pay for new or expanded public capital facilities that will directly address the increased demand for services created by that development. [RCW 82.02.050](#) authorizes counties, cities, and towns planning under the [Growth Management Act](#) (GMA) to impose impact fees for:

- Public streets and roads;
- Publicly owned parks, open space, and recreation facilities;
- School facilities; and
- Fire protection facilities.

Because ADUs are generally smaller than standard single family homes, they typically have fewer people living in them, and likely cause fewer impacts.

State law

The city or county may not assess impact fees on the construction of accessory dwelling units that are greater than 50 percent of the impact fees that would be imposed on the principal unit.³⁸

³⁸ [RCW 36.70A.681\(1\)\(a\)](#) and [SB 5258](#) (section 10, laws of 2023) amends RCW 82.02.060 to require local governments to publish a schedule of impact fees which reflects the proportionate impact of new housing units. This includes multifamily and condo units, based on square footage, number of bedrooms or trips generated, to produce a proportionally lower impact fee for smaller housing units. Local governments must adopt this schedule within six months after the periodic update due date.

Local policy choice

Local governments may charge according to the size of the unit, fixture count, or location with the community, or completely waive fees, but in no case should the fees be more than 50% of what would be charged to the principal unit.

Examples

- [Everett 2023 Impact Fees Schedule](#) – Waives transportation and school impact fees for ADUs.
- [Olympia Municipal Code Ch. 15.08](#) – Waives school impact fees and reduces transportation and park impact fees for ADUs.
- [Renton 2019-2020 Fee Schedule \(Section XII\)](#) – Provides impact fee reductions and waivers for ADUs.
- [Lake Stevens Municipal Code Sec. 9.25.010](#) – Reduces utilities connection fees for ADUs based on ADU size.

Utility connection fees/system development charges

System development charges, or connection fees may be charged for area-wide improvements for water, sewer or stormwater. Like impact fees, communities may charge according to the unit's impact on the system. A fundamental feature of ADUs is that the ADU is "accessory to" a primary residential unit. As a result, the ADU will be smaller, typically have fewer people living in it, and have a reduced demand for municipal services.

Metering considerations when connecting to the sewer system

The Department of Health considers an ADU a separate dwelling unit if it is located outside and separate from the single family residence (detached). An ADU located within the single-family residence, such as a basement or attic unit, is generally not considered a separate connection to the sewer system for the purposes of metering. The total number of service connections is determined by counting each single-family home, each dwelling unit in a multi-family building, and each nonresidential building that the water system serves.

Local policy choice

There is no specific requirement to reduce charges for sewer, water and stormwater, as there is for impact fees, but a local government has the option of removing, reducing or waiving connection fees or system development charges to meet public purposes. Because of the dependent nature of ADUs, it is recommended that local governments allow shared meters, especially for attached units that are within the capacity of an existing meter. There may be limited cases in which separate meters are necessary because of site configuration or separate sale. They may choose to reduce system development charges to 50% as well because these charges are meant to fund area wide system development improvements, and an ADU generally has a smaller impact.

Examples

- King County has a detailed system capacity charge system with charges that vary based on the size and form of the housing unit, with addition discounts for affordable units.
<https://kingcounty.gov/en/dept/dnrp/waste-services/wastewater-treatment/sewer-system-services/capacity-charge/about>
- [Kirkland Accessory Dwelling Units](#) – This webpage provides the following information:
 - ADUs are not subject to water capital facility charges if there are no changes to the water service/meter.
 - ADUs are not subject to sewer capital facility charges.
 - ADUs are not subject to the surface water capital facility charge if the primary residence is already connected to the public storm system.

- [Olympia Municipal Code Ch. 13.04](#) and Ch. 13.08 – Provides the option of new connections or tie-ins when developing an ADU. There is no charge when the connection occurs on the lot. The Olympia Engineering and Design Standards Section 7B.080 addresses the issue of ADUs and side sewers.
- [Sedro Woolley Municipal Code Sec. 17.100.030](#) – Utilities may be shared between an ADU and the primary dwelling. Sewer connection fees are collected at a reduced rate depending on the size of the ADU.

10. Other Fees and Exactions

State law

A city or county may not require public street improvements as a condition of permitting ADUs.³⁹

State law requires that public street improvements must not be required as a condition of permitting ADUs, even if the development of the primary unit can trigger such improvements.

Another barrier might be the cost of permit fees. Local governments often attempt to recoup the actual cost of processing land use permits, but there is not a legal requirement that they do so. A city or county could choose, for policy reasons, to charge a lower amount for ADU applications as part of a strategy to encourage property owners to construct new ADUs on their properties. In addition, lowering fees makes sense if a city or county is taking other steps to streamline the ADU process, since those measures may also result in lower permit administration costs.

Examples

- [Spokane Municipal Code Sec. 08.02.031](#) – Waived permit fees for ADUs on lots within half a mile of certain zoning districts. The waiver is set to expire at the end of 2024.
- [Washougal Municipal Code Sec. 18.46.020](#) - Does not charge an application fee for detached ADU development.

³⁹ RCW [36.70A.681\(1\)\(l\)](#). The GMA does not currently define "public street improvements", however "public facilities" is defined in [RCW 36.70A.030](#) and "public improvements" in [RCW 39.114.010](#); both include street and road construction including sidewalks, street and road lighting systems, storm and sanitary sewer systems, among other public improvements.

Recommendations for cities and other urban areas

The following recommendations are not required but are suggestions to encourage the development of ADUs. They are to apply only to cities, towns, and other urban areas, including unincorporated urban growth areas (UGAs) and limited areas of more intensive development (LAMIRDs). The purpose of applying these ADU recommendations to cities and other urban areas, and not to rural areas or resource lands is to support the GMA's goals of encouraging development in urban areas and reducing sprawl.

1. Allow prefabricated units

Prefabricated detached ADUs can provide a degree of cost savings, which may make them more affordable for property owners, especially in more remote areas that may not have access to the tradespeople needed to construct ADUs. Because materials and manufacturing are centralized at an off-site manufacturing facility, prefabricated units require less construction time than conventionally built structures and can be constructed year-round in a climate-controlled factory.

[RCW 35A.21.312](#) allows for consumer choice in housing, requiring local government to allow the placement of factory-built homes in any location where site-built homes are permitted. The law was likely developed to apply to primary units, and not necessarily ADUs. However, cities and counties may adopt a set of additional standards, relating to permanent foundation, roof pitch, and design, although not all of those standards should be applied to ADUs.

Any prefabricated unit must meet state standards.⁴⁰ Local codes may refer to larger manufactured homes, and may not be related to small homes, such as park models, more suitable for an ADU.

Example

- [Bremerton Municipal Code Sec. 20.46.010](#) – Allows for manufactured homes to be used as ADUs.



Prefab detached ADU: Nanny Flat, Elder Cottage. Credit: Eddie Bojorquez/Crest Backyard Homes.

⁴⁰ See the Washington Department of Labor & Industries page on [Manufactured Home Permits & Inspections](#).

Tiny houses

Tiny houses, or tiny houses with wheels, as defined in [RCW 35.21.686](#), are not generally allowed as ADUs because they may not meet the standards required for a permanent residential unit, such as a foundation, water supply and sewage disposal. However, some communities are starting to consider allowing tiny homes on wheels as temporary units, with appropriate connections and tie-downs.⁴¹

One exception in state law is that tiny homes on wheels and RVs may be used as permanent living quarters only when situated in manufactured/mobile home communities, but they are still subject to certain life/safety and utility hookup requirements per [RCW 35.21.684](#). Tiny houses must be inspected and meet the standards of the Washington State Department of Labor and Industry.⁴²



Prefab ADU travelling from factory to residential site / installed on-site. Credit: Roger Fitzsimons.

2. Streamline ADU permitting processes

A local permitting process should be designed to make it as easy as possible for an applicant to prepare and submit a development permit application, and for the permit review staff to review and quickly approve it. This approach should be particularly true for the types of development that a community is actively trying to encourage, such as ADUs.

Discretionary project permitting processes, such as those requiring conditional use permits, hearings examiner review, and public hearings add extra time and cost to getting a development project approved. These processes make sense for situations where a proposed project may be large or have a number of potential

⁴¹ Port Townsend allows tiny homes on wheels. (THROWS) <https://cityofpt.us/planning-community-development/page/new-july-1st-tiny-house-wheels-throws>

⁴² See the Washington Department of Labor & Industries page on [Tiny Houses](#).

impacts on a neighborhood or community. For small, low-impact development projects that advance adopted public policy such as new ADUs, a discretionary permitting process creates an unnecessary barrier to ADU construction.

Local governments should allow ADUs “by-right,” with project review and approval to be done administratively. Having an expedited or shorter review process for ADUs can also include preferential review of ADU proposals. Providing pre-approved ADU plans is another method for reducing the time needed to review an ADU proposal (see provide pre-approved ADU plans below). Streamlining can be additionally bolstered by checklists that clarify the ADU approval process (see below on providing user-friendly communication materials).

Examples

- [Pasco Municipal Code Sec. 25.161.030](#) – ADU applications are approved administratively.
- [Sequim Municipal Code Sec. 18.66.040](#) – Requires a single administrative permit for ADU development. The application must be processed by the community development director within 30 days of submittal ([Sec. 20.01.080](#)).

3. Offer incentives to encourage ADUs that are affordable to lower-income households

While ADUs are generally more affordable than a typical single-family home, most aren't affordable to households making less than 80% of the area median income (AMI). To address this issue, some local governments offer incentives for ADUs that are affordable for lower-income households (that is, less than 80% AMI) for a set number of years (such as 50 years). These types of incentives usually involve requiring affordability in exchange for providing a “bonus,” like higher densities in the form of an additional ADU. Local governments can also support affordability for low-income residents by incorporating ADUs into their affordable housing funding programs and forming partnerships with community land trusts and other non-profit organizations.

Local policy choice

There are a number of ways that local governments can offer reductions for affordable housing, most require some kind of assurance that the unit will remain affordable over time.

- [RCW 82.02.060](#)(4) also authorizes local governments to offer impact fee reductions or waivers for affordable housing. An exemption for low-income housing granted under this section, however, must be conditioned upon requiring the developer to record a covenant that prohibits using the property for any purpose other than for low-income housing.
- [RCW 36.70A.540](#) authorizes local governments to expand affordable housing incentive programs to include, among other things, fee waivers or exemptions provided the local government is committed to continuing affordability for at least 50 years.
- A local government may offer “tap-in charge” waivers for low-income persons (under RCW 35.92.380 or [RCW 36.94.370](#)).⁴³

Examples

- [CLTplusOne](#) – A pilot program offered by Durham (NC) Community Land Trustees, which pairs a land trust home with ADUs on the same lot. Both the primary residence and rental unit are permanently affordable (see this Shelterforce article on Durham’s Community Land Trust).

⁴³ For more information on this topic, see MRSC’s [Affordable Housing Techniques and Incentives - Reduction/Waiver of Fees](#).

- [Seattle Municipal Code Sec. 23.44.041](#) – Allows a second ADU on a lot if one of three conditions are met: conversion within an existing structure, green building standards, or affordability for “income-eligible households” for a minimum of 50 years.

Key considerations for counties

GMA-planning counties must plan and provide regulatory frameworks for four land use categories in decreasing order of ADU intensity:

- Unincorporated UGAs.⁴⁴
- LAMIRDs
- Rural lands
- Designated natural resource lands

1. Unincorporated UGAs and LAMIRDs

Unincorporated urban growth areas

In unincorporated UGAs, which are generally intended to have urban services and eventually become or annex into cities, the requirements in this guidance apply within 6 months of the next periodic update.⁴⁵

LAMIRDs

Within Limited Areas of More Intensive Rural Development (LAMIRDs), the outer boundary may not change, but the LAMIRD may be filled in with new development, including ADUs.

2. Rural and natural resource lands

ADU regulations outside of urban growth areas require consideration of a different set of factors than ADU regulations in cities and urban growth areas. ADU provisions in rural and resource areas must be accompanied by measures to protect rural character, conserve resource lands, and limit density and sprawl.

One of the benefits of ADUs in urban areas is that under HB 1337, the ADUs can be sold separately and add to the supply of attainable housing for moderate on maybe lower income households. The same does not hold true in rural areas, where the ADU cannot be sold separately, and the private cost of transportation and public cost of transportation-related emissions reduces the public benefit of ADUs in rural areas.

When developing or amending regulations, counties should consider the potential for:

- Increased demand for emergency and other services.
- Increased traffic on county roads, which may be built to a lower standard.
- More housing and increased population in areas potentially prone to wildfires or other natural hazards.
- Impact on water supplies.
- Conflict with or decrease in land available for agriculture or other natural resource industries.

The Growth Management Hearings Boards (GMHBs) have considered challenges to ADU regulations in rural and resource designated areas in a handful of counties. Three hearings boards have issued decisions

⁴⁴ See [Chapter 36.70A RCW](#).

⁴⁵ [RCW 36.70A.680\(1\)](#)

disfavoring local regulations allowing detached ADUs where they do not include specific criteria to curtail indiscriminate increased density.⁴⁶

Rural lands

For areas designated as “rural,” the regulations must be consistent with “rural character” as established in the rural element of the county’s comprehensive plan.⁴⁷ [RCW 36.70A.030\(23\)](#) defines rural character as “[...] the patterns of land use and development established by a county in the rural element of its comprehensive plan.” Importantly, what constitutes rural character in one county may be different than what constitutes rural character in another ([RCW 36.70A.011](#)). ADUs should not contribute to sprawl or cause residential uses to predominate over rural uses.⁴⁸

Given the need to be consistent with and implement their rural, housing, and land use elements of their comprehensive plans (among others), it will be important for counties to “show their work” through the written record, including but not limited to whereas statements, findings of fact, staff reports, and public participation processes; and to articulate legal and policy justifications for their actions.

Designated natural resource lands

Counties must ensure ADU regulations are consistent with GMA requirements to preserve natural resource lands for resource production. In natural resource lands, the dominant use is to be the agricultural, forestry, or mineral use; residential development must be located to not interfere with the natural resource use, and preserve the majority of land for such use.⁴⁹ See [RCW 36.70A.060](#).

Considerations and examples for rural and resource areas

Generally, regulations permitting attached ADUs raise fewer concerns than those permitting detached ADUs. While several counties allow detached ADUs in their rural land designations, most include restrictions related to standards such as:

- Size limit on a single ADU.
- Minimum lot size to conform to zoning or in some cases, double the minimum lot size.
- Proximity to and dependency on the primary residence (such as shared driveway, parking, yard, septic, well, utilities, etc.).
- Design standards for consistency with primary unit.
- Limitations on number of permits issued annually.

⁴⁶ [Loon Lake Property Owners, et al v. Stevens County](#), EWGMHB, Case No. 01-1-0002c, Compliance Order (May 30, 2008); [Friends of San Juans, et al v. San Juan County](#), Case No. 3-2-0003c coordinated with [Nelson, et al v. San Juan County](#), Case No. 06-2-0024c, FDO/Compliance Order, at 3 (Feb. 12, 2007).

⁴⁷ County comprehensive plans must include a rural element. A county’s rural element must include policies that are consistent with rural character. [RCW 36.70A.070\(5\)\(b\)](#) provides, in relevant part: “[The rural element] shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.”

⁴⁸ [RCW 36.70A.020\(2\)](#) and [RCW 36.70A.110\(1\)](#) and [.070\(5\)](#). [Friends of San Juans, et al v. San Juan County](#), Case No. 3-2-0003c coordinated with [Nelson, et al v. San Juan County](#), Case No. 06-2-0024c, FDO/Compliance Order, at 3 (Feb. 12, 2007) — Regulations allowing a detached ADU on substandard rural lots allowed residential use to predominate over rural uses and were therefore noncompliant; [Loon Lake Property Owners, et al v. Stevens County](#), Case No. 01-1-0002C — Allowing an ADU on all parcels —including substandard lots — can considerably increase density within zone.

⁴⁹ [Futerwise v. Snohomish County, Case 22-3-003, Final Decision and Order](#). The Board found that the county failed to protect agricultural lands of long-term commercial significance, in violation of RCW 36.70A.177, and was inconsistent with multi-county and countywide planning policies, in violation of RCW 36.70A.210.

- Restrictions on title.

Careful with detached ADUs (attached ADUs preferred)

The hearings boards have held that freestanding residential ADUs should be treated as separate dwelling units for purposes of density calculations — although in some cases have found compliant county regulations that allow limited exceptions to detached ADUs triggering such density requirements.⁵⁰

Attached ADUs are Preferred

Conversely, the boards have held that attached ADUs and ADUs converted from an existing structure in close association with the primary residence (such as a garage) do not count toward density in rural and resource areas.⁵¹

Examples

- [Clark County: Accessory Dwelling Unit – Rural \(Handout\) \(2022\)](#) – Allows only attached ADUs in rural and resources zones.
- [Kitsap County: Accessory Dwelling Unit \(Handout\) \(2022\)](#) – Requires detached ADUs to be sited within 150 feet of the principal dwelling outside of UGAs. Size limit, 50% of primary unit or 900 square feet, whichever is smaller. Owner occupancy requirements and design standards apply.
- [San Juan County Code Sec. 18.40.240](#) – Limits the number of detached ADU permits outside “activity centers” and UGAs in any calendar year to no more than 12% of the total number of building permits for new principal residences issued for the previous calendar year. Further limited to one permit per property owner outside UGAs.
- [Spokane County: Detached Accessory Dwelling Unit \(Handout\)](#) – Detached ADUs in selected rural zones must be within 150 feet of principal dwelling and meet several other conditions, including that title notice will be placed on the property that the accessory dwelling may not be sold as a separate residence until such time as the accessory dwelling is located as the sole residence on a legally subdivided parcel.
- [Walla Walla County Code Sec. 17.08.015](#) – Requires at least four of six “dependency requirements” be shared for a detached ADU (road access, septic system, water system, utility meters, yard, and parking areas).

Other programmatic elements to consider

The following “programmatic elements” are not recommendations but are instead meant to be additional options to be considered by cities, towns, and other urban areas, including unincorporated UGAs and LAMIRDS.

1. Address the use of ADUs as short-term rentals

Construction of ADUs presents an opportunity to increase a community’s supply of relatively affordable long-term housing. When an ADU is used as a short-term rental (STR), defined as a housing unit being rented for fewer than 30 consecutive days, that housing unit functions as a lodging unit for visitors and not as a housing

⁵⁰ [Friends of San Juans, et al v. San Juan County](#), Case No. 3-2-0003c coordinated with [Nelson, et al v. San Juan County](#), Case No. 06-2-0024c, FDO/Compliance Order, at 3 (Feb. 12, 2007).

⁵¹ [Yanisch v. Lewis County](#), Case No. 02-2-0007c, Order on Compliance Hearing (Mar. 12, 2004).

unit.⁵² As a result, some local governments completely prohibit the use of ADUs as STRs, while others limit but don't completely prohibit that use.

The primary rationale for prohibiting or limiting ADUs being used as STRs is that renting an ADU as a long-term housing unit, defined as being rented for more than 30 consecutive days, will have the dual benefit of providing a positive income stream to a homeowner and adding a new residential unit to the local housing supply.

Some studies attempt to make the case that ADUs being used as STRs make up “only a small percentage” of the overall stock of STRs (8%-12%).⁵³ For example, data collected by the City of Seattle shows that 11% of the total short-term rental units were ADUs. It should be noted, however, that 11% still represents 418 units that are not contributing to that city's long-term housing supply.

Given the significant policy implications, local governments located in areas with high demand for short-term rentals, such as popular tourist destinations, should carefully consider the pros and cons of allowing ADUs to be used as short-term rentals.

State law

Cities and counties may restrict the use of ADUs for short term rentals.⁵⁴

Examples

- [Bellingham Municipal Code Sec. 20.10.037](#) – Does not allow STRs in detached ADUs in single-family zones but does allow them in detached ADUs in other zones, and in attached ADUs citywide.
- [Poulsbo Municipal Code Sec. 18.70.070](#) – Does not allow ADUs to be used as STRs. [Sequim Municipal Code Ch. 18.66](#) – Does not allow ADUs to be used as STRs.

2. Provide user-friendly communication materials

To assist applicants in navigating the ADU permitting process, local governments can provide user-friendly ADU webpages, informational handouts, guides, and checklists. These guidance documents can help by clearly articulating ADU requirements to property owners, homeowners, contractors, and developers. Clear materials inform those who are interested in building ADUs and encourage interest in ADU construction.

Examples

- [Bremerton Guide to Establishing an ADU \(2021\)](#) – Includes an overview of the city's ADU standards and links to permit requirements.
- [Lake Stevens ADU Permit Checklist](#) – Helps applicants understand the city's ADU provisions.
- [Olympia ADUs & Accessory Structures Guide \(2022\)](#) – Includes an overview of ADU regulations and standards, including design review requirements and guidelines.
- [Seattle ADUniverse: The ABCs of ADUs](#) – Includes a step-by-step guide to creating an ADU.
- [Thurston County ADU Handout \(2021\)](#) – Covers the main elements of the county's three-step ADU permitting process.

⁵² [RCW 36.70A.696\(9\)](#) defines short-term rental as "a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, is offered or provided to a guest by a short-term rental operator for a fee for fewer than 30 consecutive nights."

⁵³ See, for instance, the Urban Land Institute's report [Jumpstarting the Market for ADUs: Lessons Learned from Portland, Seattle, and Vancouver](#).

⁵⁴ [HB 1337 Section 3\(5\)\(a\)](#).

3. Provide information on landlord-tenant laws for prospective ADU owners and ADU tenants

For many homeowners renting an ADU on their property, this may be the first time they have served as a landlord. As a result, they may not be familiar with relevant local, state, and federal laws that apply to landlords (such as the Fair Housing Act). Conversely, renters also have certain rights and responsibilities under these laws that both landlords and tenants should know.

The Washington [Residential Landlord-Tenant Act](#) includes the state's key landlord-tenant laws.⁵⁵ Some local governments have created landlord-tenant regulations and programs with additional protections for renters, including rental registration and extra notice of rent increases and/or inspections. To inform both landlords and tenants about these requirements, local governments can develop user-friendly summaries of these resources and provide them to ADU applicants during the permit process.

Examples

- [Bellingham: Landlords and Tenants](#) – Includes information on the city's rental housing regulations, rental registration and safety inspection program, and more.
- [Benton County: Renter's Resources](#) – Includes information on fair housing and tenant rights in Washington.
- [Burien: Renting in Burien](#) – Includes information on the city's rental housing inspection program, notice of intent to sell, and eviction law in Washington.
- [Olympia: Tenant Protections](#) – Includes information on the city's rental housing ordinance, FAQs, and more.
- [Tacoma: Landlord-Tenant Program](#) – Includes information on the city's landlord-tenant program.

4. Provide information on ADU financing and funding programs

Lack of funding and financing options is often cited as one of the most prevalent challenges for ADU construction.⁵⁶ Lending institutions that finance ADU projects generally don't allow homeowners to borrow against a portion of the future value of an unbuilt ADU, further constraining the viability of projects. To support homeowners in financing their ADU projects, local governments can:

- Identify other funding and financing opportunities for ADUs and make these resources available at the permit center and online.
- Develop programs to facilitate access to ADU funding and financing opportunities.

[RCW 84.36.400](#), authorizes counties to provide a three-year property tax exemption for improvements to a single-family dwelling, including the construction of an ADU, as long as it represents 30% or less of the value of the original structure. The program was initiated through [Chapter 204, Laws of 2020 \(2SSB 6231\)](#) and stipulates that dwelling units may be either attached to or within the single-family dwelling or a detached unit located on the same real property. In 2023, additional provisions were added in King County.⁵⁷

⁵⁵ More information on state and federal laws may be found on the Washington Office of the Attorney General's [Landlord-Tenant](#) page and the U.S. Department of Housing and Urban Development [Tenant Rights, Laws and Protections: Washington](#) page.

⁵⁶ See the UC Berkeley's Turner Center for Housing Innovation's article [ADU's for All: Breaking Down Barriers to Racial and Economic Equity in ADU Construction](#) (2022).

⁵⁷ SB 5045 offers extended property tax exemptions for ADUs in King County if the unit is affordable.

ADU owners may deduct, for income tax purposes, construction costs over time, annual property taxes, and shared monthly utility costs from rental proceeds, which may help encourage their development.

Examples

- [Olympia OlyFed Bank: ADUs Financing](#) – Provides six loan options for ADU construction. See this [ADU Loan Options flyer](#) and [ADU Financing](#) presentation for more information.
- [Spokane Single-Family & Detached ADU Tax Exemption](#) – The City of Spokane highlights the fact that Spokane County provides a tax exemption for ADUs for the three assessment years after the completion of the improvement, to the extent the improvement represents 30% or less of the value of the original structure.

5. Create a program to encourage legalization of unpermitted ADUs

A combination of strong demand for new housing and too many barriers have in some Washington communities resulted in unpermitted ADUs. Creating a program to allow legalization of unpermitted ADUs can help promote safe, legal structures and open them up to rental opportunities.

Local governments are encouraged to develop programs to promote the legalization of existing housing units, which should be done in a manner that ensures ADUs are safe to inhabit.

Examples

- [Bellingham Municipal Code Sec. 20.10.036](#) – Allows ADUs existing prior to January 1, 1995, to become legally permitted, as long as ADU owners submit an application that is consistent with current ADU regulations and building codes.
- [Ferndale Municipal Code Sec. 18.34.060](#) – Allows owners of ADUs established before June 20, 2017, to submit an application to the city to legally permit the existing unit pursuant to the city's ADU regulations.

6. Provide pre-approved ADU plans

After confirming their property is eligible for an ADU, homeowners begin the design process with an architect or designer. Depending on whether the unit is within an existing structure or free standing, the design process can add significant time and expense to a project. To streamline this step, some local governments offer detached ADU plan designs that have been pre-approved for compliance with building codes. ADU applications with pre-approved plans are typically approved in a shorter timeframe and with reduced permit fees since the designs have been vetted by staff. Even though the designs have been pre-approved all other code provisions, like site-specific standards, still apply.

Examples

- [Olympia: Pre-Approved ADU Plans \(Guide\)](#) (2021) – The cities of Olympia, Lacey, and Tumwater worked together to offer four plans that have been pre-approved for compliance with building codes.
- [Leavenworth: ADU Plans](#) – Offers four pre-approved designs. Each option includes two different styles – modern and traditional.
- [Renton: Permit Ready ADU Program](#) – Includes eight pre-approved, designed, and engineered model base plans, ranging in size from 415 to 1,000 square feet and varying in architectural style.
- [Seattle: Pre-approved Detached ADUs Program](#) – Offers 10 pre-approved plans for detached ADUs, including factory-assembled structures that have been approved by the Washington Department of Labor and Industries.



Cedar Cottage Seattle ADU Pre-Approved Plan (above and below). Credit: CAST architecture.



Appendix A: Additional examples and resources

1. Allow two ADUs per lot

- [Bremerton Municipal Code Ch. 20.46](#) – Allows up to two ADUs per lot (see Sec. 20.46.010).
- [Kirkland Municipal Code Sec. 115.07](#) – Allows up to two ADUs (either attached or detached).
- [Fife Municipal Code Ch. 19.80](#) – Allows both one attached and one detached ADU on larger city lots.
“For lots between 3,200 and 4,356 square feet, only attached ADUs are permitted. For lots larger than 4,356 square feet both attached and detached ADUs are permitted, provided the extra lot area required in the applicable zone is met.”
- [Lake Forest Park Municipal Code Ch. 18.50](#) – For lots exceeding one acre, one attached and one detached ADU are permitted (see Sec. 18.50.050).

2. Do not require owner occupancy

- [Seattle Release of Owner Occupancy Covenant for ADUs Forms](#) (Word document) – This form for recording with the King County Recorder’s Office releases property from the covenant for owner occupancy entered into as a condition of applying for an ADU permit, as owner occupancy is no longer required by Seattle’s Land Use Code per [Ordinance No. 125854 \(2019\)](#).

3. Do not require off-street parking for ADUs

- [Bainbridge Island Municipal Code Ch. 18.09](#) – Allows garage conversions for ADUs.
- [Bellevue Ordinance 6589](#) – Adopted in 2021 prohibiting requirements for off-street parking for ADUs within one-quarter mile of a major transit stop. For additional background information, see Bellevue’s page on [Reduced Minimum Residential Parking Standards](#).
- [Bremerton Municipal Code Sec. 20.46.010](#) – One ADU is not required to provide an additional off-street parking space. The second ADU is required, however, to provide an off-street parking space in addition to that which is required for the principal unit.
- [Spokane Municipal Code Sec. 17C.300.130](#) – No additional parking is required for studio and one-bedroom ADUs and ADUs within one-quarter mile of certain transit stops. Spokane allows garage conversion for ADUs.
- [Olympia Municipal Code Sec. 18.38.100](#) – Doesn’t require parking spaces for ADUs (see table 38.01, “Residential” section).
- [Tacoma Municipal Code Sec. 13.06.080](#) – No off-street parking is required for ADUs.
- [University Place Municipal Code Sec. 19.70.010](#) – No additional off-street parking is required for ADUs.
- [Vancouver Municipal Code Ch. 20.810](#) – Doesn’t require additional on-site parking in conjunction with the establishment of an ADU. The city allows conversion of an existing garage structure or other outbuilding to be converted to an ADU; however, off-street parking for the primary residence is required to be provided elsewhere on the site.
- [Seattle Municipal Code Sec. 23.44.041](#) – Off-street parking is not required for ADUs, except that an existing required parking space may not be eliminated to accommodate an ADU unless it is replaced elsewhere on the lot.

4. Reduce barriers from setbacks and other ADU regulations

Reduce setbacks for ADUs (especially rear setbacks)

- [Brier Municipal Code Sec. 17.24.010](#) – ADUs must conform to standard setback regulations, though the rear yard setback requirement is reduced to seven feet for ADUs.
- [Kirkland Municipal Code Sec. 115.115](#) – Required setbacks are the same as the underlying zone. detached ADUs may be located within five feet of an alley. Detached ADUs without alley access may be located no closer than five feet from the rear property line as long as the portion of the detached ADU in the reduced setback is no taller than 15 feet.
- [Sequim Municipal Code Sec. 18.66.050](#) – Exempts existing legally created on-site accessory structures – such as garages – that have been converted to ADUs from complying with setback standards.
- [Tacoma Municipal Code Sec. 13.06.080](#) – No setbacks from alleys are required.

Reduce minimum lot sizes for ADUs (especially on small urban lots)

- [La Conner Municipal Code Sec. 15.110.080](#) – ADUs are allowed on lots that are under 5,000 square feet.
- [Medina Municipal Code Sec. 16.34.020](#) – ADUs are excluded from minimum lot area requirements.
- [Tacoma Municipal Code Sec. 13.06.080](#) – ADUs are allowed on any legally established lot, regardless of lot size or width.

Increase height maximums for ADUs

- [La Center Municipal Code Sec. 18.247.050](#) – ADUs are limited in height to 25 feet or the primary dwelling's height, whichever is lower.
- [Mukilteo Municipal Code Sec. 17.30.060](#) – ADUs may be two stories high and must comply with maximum building heights for the underlying zoning district; Detached ADUs cannot be taller than the primary unit, except that there is a maximum height of one-story if the detached ADU is located above a garage or similar structure.
- [Pacific Municipal Code Sec. 20.92.060](#) – ADUs may be up to 25 feet high.

5. Increase maximum size limits for ADUs appropriate to zone and context

- [Black Diamond Municipal Code Sec. 18.56.030](#) – Detached ADUs are limited to 1,000 square feet.
- [Bremerton Municipal Code Sec. 20.46.010](#) – Limits ADUs to 1,000 square feet or no more than 60% percent of the principal unit's total habitable floor area, whichever is greater. Attached ADUs in residences built prior to 2020 may receive director's approval to increase ADU floor area to equal that of the principal dwelling.
- [Burien Municipal Code Sec. 19.17.070](#) – Internal or attached ADUs are limited to 1,000 square feet. The planning director may make exceptions to size limitations to allow for the better utilization of existing spaces.
- [Leavenworth Municipal Code Sec. 18.36.035](#) – The total habitable floor area of any ADU is limited to 1,200 square feet.
- [Kirkland Municipal Code Sec. 115.07](#) – ADUs are limited to 1,200 square feet.
- [Roslyn Municipal Code Sec. 18.140.030](#) – ADUs are limited to 1,000 square feet.
- [Yakima Municipal Code Sec. 15.09.045](#) – The ADU's floor area is limited to 1,000 square feet.

6. Limit use of design standards

- [Bothell Municipal Code Sec. 12.14.135](#) – Attached ADU entrances are permitted on the front of the primary residence under certain conditions.
- [Bremerton Municipal Code Sec. 20.46.010](#) – The city has developed a user-friendly [ADU Guide](#) (2021) that summarizes design regulations with visual examples.
- [Fife Municipal Code Sec. 19.80.040](#) – Recommended approaches to promote privacy for adjacent properties are included in subsection 19.80.040(A)(6).

7. Remove, reduce or waive permit application fees, impact fees, system development charges, and other ADU-related fees

Utility connection fees/system development charges

- [Chelan Municipal Code Sec. 13.33.020](#) – Offers utility rate reductions for ADUs.
- [La Center Municipal Code Sec. 18.247.050](#) – ADUs may share sewer and water connections with the primary dwelling. System development charges are imposed at a reduced rate compared to a single-family home (Sec. 18.247.080).
- [Yakima County Code Sec. 19.18.020](#) – The ADU and the primary dwelling unit will share a single sewer and water connection, unless the local sewer and/or water purveyor requires separate connections.

Impact fees

- [Bellingham Permit Fees](#) – This webpage offers information establishing that:
 - ADUs are assessed at half the multi-family rate for park impact fees.
 - For transportation impact fees, the person trip rate is less than duplexes and townhouses.
 - School impact fees are waived for ADUs.

- [Bellingham Ordinance No. 2018-11-022](#) – Establishes impact fee reductions related to the city’s 2018 ADU code update.
- [Kirkland Accessory Dwelling Units](#) – Exempts transportation, park, and school impact fees for ADUs in accordance with city code (KMC 27.04.050, KMC 27.06.050, KMC 27.08.050). These fees are assessed on the primary single-family residence only.
- [Renton 2023-2024 Fee Schedule](#) – Impact and permit fees are waived for ADUs. Stormwater system development charges are reduced by 50% for ADUs.
- [Tukwila Fee Schedule](#) – Exempts attached ADUs from impact fees (see Figure 16-1 “Fee Schedule”).
- [Everett 2023 Impact Fees Schedule](#) – Waives traffic and school impact fees for ADUs.
- [Olympia Municipal Code Ch. 15.08](#) – Waives school impact fees and reduces transportation and park impact fees for ADUs.
- [Renton 2019-2020 Fee Schedule \(Section XII\)](#) – Provides impact fee reductions and waivers for ADUs.

ADU permit application fees

- [Port Angeles Temporary Building Permit Fee Waiver Form](#) (2022) – A temporary building permit fee waiver is available for construction of housing reserved for families with 80% AMI or below through September 2028; ADUs are included as an acceptable dwelling type for this waiver.

8. Allow prefabricated ADUs

Code examples

- [Richland Municipal Code Sec. 23.42.020](#) – Allows accessory apartment units that are manufactured off site.
- [Langley Municipal Code Sec. 18.22.115\(C\)](#) – While not addressing prefabricated housing, “tiny homes” are allowed to be used as ADUs, if they can meet the International Residential Code (IRC) and other specified local standards.

Other resources

- [Olympia Manufactured Homes \(Handout\)](#) (2017) – Manufactured homes are allowed to be used as ADUs, particularly to promote affordable housing.

Seattle ADUniverse:

- [The ABCs of ADUs](#) – Mentions factory-built ADUs in the Construction section.
- [Pre-approved Detached ADUs](#) – References factory-assembled structures in the L&I-approved detached ADUs section. The pre-approved plans include the Urban Cottage Prefab and WOOD Studio design.
- [Seattle: Guide to Building a Backyard Cottage \(2010\)](#) – See page 19.
- [Seattle Tip Sheet 305: Factory-Assembled Structures for Residential and Commercial Use](#) (2023) – Includes a comparison of the three types of factory-assembled structures, local requirements, and fees.
- [Insider: A new collection of minimalist tiny homes from \\$37,500 is available in the US for the first time](#) (2023) – Article about affordable tiny homes from Latvia-based firm, MyCabin.
- [Congress for the New Urbanism: Novel idea - Modular house that’s cute](#) (2023) – Article describing a well-designed modular house that received an Urban Guild Award.
- [HUD Office of Policy Development \(PD&R\): Factory-Built Accessory Dwelling Units for Affordable Housing Options \(2020\)](#) – Highlights communities that support factory-built ADU designs.

9. Streamline ADU permitting processes

Code examples

- [Olympia Municipal Code Sec. 18.72.080](#) – Approves ADUs administratively.

- [Pacific Municipal Code Sec. 20.92.057](#) – Single, straightforward application requirements for ADU development.
- [Sequim Municipal Code Sec. 18.66.040](#) – Approves ADUs administratively.
- Other resources
- [Bellevue: ADU Registration](#) – This webpage notes that ADU registration, a floor plan, and site sketch/site plan are the minimum necessary to proceed with the ADU application process.
- [Camas: ADU Application Form](#) – Two-page application form that includes applicable development standards and design guidelines.
- [Lake Stevens: ADU Compliance Checklist](#) – This checklist provides a detailed overview of the permitting process.
- [MRSC: Streamlining Local Permit Review Procedures](#) – This webpage provides examples of streamlined permit review processes.
- [Seattle: Construction Permit – Addition or Alteration](#) – This webpage provides that to add within an existing house, a [construction addition/alteration permit](#) is needed; to build a detached unit, a [construction addition/alteration permit](#) is needed.
- [Vancouver Municipal Code Sec. 20.920.060\(H\)](#) – Expedites permit review for infill development.

10. Offer incentives to encourage ADUs that are affordable to lower-income households

- [Bellingham Housing Development: Guideline and Procedure Handbook \(2019\)](#) – Housing Levy funds are available to support purchases of homes with ADUs.
- [Block Project](#) – Nonprofit with a mission to construct and find homeowners in Seattle willing to host an affordable ADU on their residential properties.
- [Habitat for Humanity \(Seattle-King & Kittitas Counties\) - South Park Project](#) – This award-winning Habitat for Humanity project, funded in part through Seattle Housing Levy funds, includes ADUs.
- [Fannie Mae: HomeReady Accessory Unit Income and Boarder Income Flexibilities](#) (2022) – Expands access to creditworthy low-income borrowers.

Community land trust (CLT) examples

- [National League of Cities: How One Colorado Community Land Trust Is Preserving Homeownership and Affordability](#) (2021) – Elevation Community Land Trust operates in partnership with a Denver Housing Authority initiative to support homeowners and prevent displacement. Their approach includes building ADUs to create more living space for family members or a new source of income.
- [T.R.U.S.T. South LA \(& four other California CLTs\): Increasing Community Power and Health through Community Land Trusts](#) (2020) – The Community Land Trust Association of West Marin, in collaboration with the Housing Authority of Marin County, offers zero-interest loans, permit fee waivers, and other benefits for homeowners to create ADUs for use as affordable rental units.
- [Shelterforce: Affordable ADUs: How It's Being Done](#) – Explores pilot programs and other strategies for financing ADUs for low- and moderate-income homeowners.

Appendix B. Relevant GMHB cases for counties

- [Futerwise v. Snohomish County, Case 22-3-003, Final Decision and Order](#). The Board found that the county failed to protect agricultural lands of long-term commercial significance, in violation of RCW 36.70A.177, and was inconsistent with multi-county and countywide planning policies, in violation of RCW 36.70A.210.

- [Loon Lake Property Owners Association, et al v. Stevens County](#), Case No. 01-1-0002c, Compliance Order (May 30, 2008) – Allowing an ADU on all parcels—including substandard lots— can considerably increase density in rural areas; regulations should contain specific criteria to curtail indiscriminate increased density.
- [Friends of San Juans, et al v. San Juan County](#), Case No. 3-2-0003c coordinated with [Nelson, et al v. San Juan County](#), Case No. 06-2-0024c, FDO/Compliance Order (Feb. 12, 2007) – Regulations allowing a detached ADU on substandard rural lots allowed residential use to predominate over rural uses and were therefore noncompliant.
- [Kittitas County Conservation, et al v. Kittitas County](#), Case No. 07-1-0015, Final Decision Order (Mar. 21, 2008) – County ADU regulations must contain density provisions to preserve rural character—failure to do so would result in “urban-like” density in rural areas.
- [Peninsula Neighborhood Association v. Pierce County](#), Case No. 95-3-0071, Final Decision and Order (Mar. 20, 1996) – Local governments are required to include ADU provisions in their development regulations, but those regulations must be consistent with the GMA requirement that local governments reduce sprawl in rural areas.
- [Yanisch v. Lewis County](#), Case No. 02-2-0007c, Order on Compliance Hearing (Mar. 12, 2004) – County definition of “rural character” must comply with GMA; subdivision or sale of ADU to family member may not be approved if doing so creates lots of less than five acres.

Appendix C. Resources for programmatic elements

1. Address the use of ADUs as short-term rentals

- [La Conner Municipal Code Sec. 15.110.080](#) – ADUs may not be used as short-term rentals.
- [Langley Municipal Code Sec. 5.40.030](#) – A maximum of 50 ADUs can be used as short-term rentals in Langley.
- [Marysville Municipal Code Sec. 22C.180.030](#) – ADUs aren’t permitted as short-term rentals.
- [Roslyn Municipal Code Sec. 18.140.030](#) – ADUs may be rented for a minimum of 60 days.
- [Tukwila Municipal Code Sec. 18.50.220](#) – Doesn’t allow ADUs to be rented for periods of less than 30 days.

2. Provide user-friendly communication materials

- [Bellingham: Homeowner's Handbook to Building an ADU](#) – This handbook, developed by the Whatcom Housing Alliance and the City of Bellingham, includes ADU basics and information on permitting, design, construction, and costs.
- [Jefferson County: The ABCs and 123s of ADUs](#) (2022) – This guide, developed by the Housing Solutions Network, includes information for homeowners considering ADU development, particularly for affordable housing.
- [Lynnwood ADU Guide](#) – One-page guide with an overview of the city’s ADU requirements, including those related to size, design, and setbacks.
- [Poulsbo Accessory Dwelling Units](#) – This webpage includes ADU basics, benefits of an ADU, code requirements, permitting process, handouts, and flow charts.
- [Redmond ADU \(Handout\)](#) (2019) – This one-pager includes an overview of the city’s ADU requirements and permit process.
- [San Juan County Detached ADU Permit Application Checklist](#) (2018) – One-page overview of all permit application requirements.
- [Seattle: A Guide to Building a Backyard Cottage](#) (2010)
- [Spokane Accessory Dwelling Unit Current Allowances](#) (2022) – Includes quick facts.

- [Tacoma ADU Tip Sheet](#) (2022) – Includes development standards, permit requirements, submittal and review process, and more.
- [Tacoma Accessory Dwelling Units Design Guide](#) (2022) – A handbook for building ADUs.

Toronto, Canada

- [Changing Lanes - Laneway Suites in the City of Toronto](#) – Provides requirements, reports, and other information for laneway suites (i.e., detached ADUs abutting a public laneway).
- [Garden Suites](#) – Offers rules and regulations, key considerations, and other information for garden suites (i.e., detached ADUs that do not abut a laneway).
- [YouTube - City of Toronto Garden Suites Draft Rules](#) – Video discussing the city’s draft rules for garden suites.
- [Vancouver ADU Fact Sheet \(2022\)](#) – Includes FAQs.

3. Provide information on landlord-tenant laws for prospective ADU owners and ADU tenants

- [A Regional Coalition for Housing \(ARCH\): Renting Out An ADU](#) – Information on finding tenants, rental agreements, landlord-tenant relationship, and more in East King County.
- [Bellevue: Residential Rental Regulations](#) – Contains general guidelines for ADU rental terms.
- [Kenmore Ordinance No. 22-0545](#) (2022) – Adopts tenant protections increasing notice for rent increases, capping late fees, capping move in fees and deposits, and more. The ordinance notes that “dwelling unit” has the same meaning as the state’s Residential Landlord-Tenant Act ([RCW 59.18.030](#)), which defines it as “...a structure of that part of a structure which is used as a home, residence, or sleeping place by one or two or more persons maintaining a common household...”
- [Kirkland: Tenant Protections](#) – Includes new tenant protections related to notice of rent increases, maximum security deposit, and enforcement.
- [Redmond: Living in Redmond](#) – Includes information on the city’s new tenant protections.

4. Provide information on ADU financing and funding programs

- [Fannie Mae: HomeReady Accessory Unit Income and Boarder Income Flexibilities](#) (2022) – Expands access to creditworthy low-income borrowers.
- [Freddie Mac: Accessory Dwelling Unit \(ADU\) FAQ](#) – Includes common questions about Freddie Mac’s ADU loan terms.
- [UC Berkeley's Turner Center for Housing Innovation & USC's Lusk Center for Real Estate: ADU Construction Financing](#) (2022) – Includes product examples and considerations.
- [A Regional Coalition for Housing \(ARCH\): ADU Lending Assistance](#) – Includes information about both private and public financial requirements and assistance.
- [Local Investing Opportunities Network \(LION\)](#) – Provides loans for ADU development in Jefferson County.

5. Provide information on ADU condominium conversions

- [Bellevue ADU Reform Land Use Code Amendment \(LUCA\)](#) – The city is updating its code to remove barriers for the construction of attached ADUs, including removing the prohibition on condominium conversion.

7. Create a program to encourage legalization of unpermitted ADUs

Code examples

- [Burien Municipal Code Sec. 19.17.070](#) – ADUs without city approval may be legalized if the owner applies for the applicable permits.

- [Enumclaw Municipal Code Sec. 19.34.240](#) – Allows ADUs that existed as of November 1, 2001, to be legally established with an application, inspection, and affidavit. Permit application fees were waived within the first year of the relevant ordinance being in effect.
- [Kirkland Municipal Code Sec. 115.07](#) – An ADU inspection is required for issuance of an ADU permit if it was built without a final building permit.
- [Langley Municipal Code Sec. 18.22.115](#) – An ADU that existed as of January 22, 2019, may be legally established and may continue to be used as an ADU with an application, inspection, and affidavit.
- [Mukilteo Municipal Code Sec. 17.30.040](#) – ADUs built without proper permitting may become legal if the owners submit an application and fulfill parking and owner occupancy requirements, among others.
- [Newcastle Municipal Code Sec. 18.31.050](#) – ADUs may become legal following an application and inspection process.
- [Roslyn Municipal Code Sec. 18.140.030](#) – If an ADU was created without a building permit, the city requires a building inspection to determine if the structure is sound, will not pose a hazard to people or property, and complies with the ADU requirements and building code.

Other resources

- [Casita Coalition: Legalizing an Unpermitted ADU](#) (2022) – Provides guidelines for homeowners to legalize existing ADUs.
- [Seattle: Construction Permit – Establishing Use](#) – This webpage provides that to legalize an existing unit, a [construction permit is needed to establish use](#); additionally, there could be a need to apply for [electrical service changes or new services](#) from Seattle City Light.

Seattle Department of Construction and Inspections

- [Tip 217 - How to Legalize a Use Not Established by Permit](#) (2022) – Includes the rationale for applying for a permit to establish a use and how to document a use for the record.
- [Tip 606 - Illegal Dwelling Units](#) (2022) – Defines illegal dwelling units and the process to legalize or remove them.

8. Provide pre-approved ADU plans

- [Lacey Accessory Dwelling Units](#) – Four pre-approved detached ADU plans are available.
- [Raleigh, NC: ADU Fast Track Gallery](#) – Provides ADU plans at a lower cost than typical design processes.

Appendix D: Other ADU information and resources

Definitions

- [RCW 36.70A.696](#) – Provides statutory definitions.
- [Seattle Office of Planning & Community Development: Encouraging Backyard Cottages](#) – This webpage includes definitions for detached and attached ADUs.
- [Vancouver Municipal Code Ch. 20.810](#) – See Sec. 20.810.020 for ADU definition.

Adopting ordinances

- [Bremerton Ordinance No. 5410](#) (2020) – Amends [section 20.46.010](#), in response to [HB 1923](#) (2020).
- [Bremerton Ordinance No. 5416](#) (2021) – Adopts amendments to the city's ADU regulations, including increasing minimum size, removing parking requirements, removing owner occupancy requirements, and changing design standards.
- [Langley Ordinance No. 1051](#) (2019) – Amends several sections of the Langley Municipal Code, including [section 18.22.155](#), to encourage housing options and increase housing affordability.

- [Seattle Ordinance](#) (2019) – Amends multiple sections of the Seattle Municipal Code to remove barriers for attached and detached ADUs and add a floor area ratio requirement in certain single-family zones.
- [Spokane Ordinance No. C36225](#) (2022)– Amends multiple sections of the Spokane Municipal Code to increase flexibility for ADUs. Changes to the ADU regulations were a Washington State Department of Commerce grant deliverable.
- [Tacoma Ordinance No. 28576](#) (2019) – Amends multiple sections of the Tacoma Municipal Code to allow detached ADUs in single-family zones, simplify regulatory requirements, reduce regulatory barriers, and increase flexibility in building design, size and location.
- See also the pre-ambles to early versions of HB 1337, which provides a number of findings supporting ADU ordinances.

Code reform processes

- [Bellevue ADU Code Reform](#) – The city’s land use code amendment will remove barriers and encourage the construction of attached ADUs.
- [Everett ADU Amendments](#) – Includes project documents for process to simplify ADU regulations.
- Policies in housing and comprehensive plans
- [Burien Comprehensive Plan: Chapter 2 - Plan Policies](#) (2022) – See the housing element (2.4) goals specifically focused on ADUs: Pol. HS 1.3, Pol. HS 1.10 and Pol. HS 1.11.
- [Everett Housing Action Plan](#) (2021) – ADUs are noted as a key strategy to increase housing variety. See section related to ADUs: "Increasing Housing Variety" Recommendation 1.1.
- [Kent Housing Options Plan](#) (2021) – See information related to ADUs in page 71 (Table 5.3) and pages 146-148.
- [Langley Comprehensive Plan](#) (2018) – See land use (LU), housing (H), and utilities and capital facilities (UCF) goals and policies related to ADUs: LU-4.8, H-1.1, H-4.1, H-4.4, and UCF-1.3.
- [Olympia Housing Action Plan](#) (2021) – ADUs are a key implementation strategy for increasing the variety of housing choices (see Chapter 2: Strategy 4).
- [Seattle 2035 Comprehensive Plan \(2020\)](#) – See the policies related to ADUs: Land Use (LU) policy LU 7.5, Greenwood/Phinney Ridge (G/PR) housing policy G/PR-P11, Queen Anne (QA) policy QA-P13, Wallingford (W) housing policy W-P14, and Westwood Highland Park (W/HP) housing policy W/HP-P21.
- [Spokane Comprehensive Plan - Housing Chapter](#) (2017) – See H 1.19 (Senior Housing), H 1.20 (ADUs).

Regional and national reports and websites

- [accessorydwellings.org](#) – A one-stop source about ADUs, multigenerational homes, laneway houses, ADUs, granny flats, and in-law units.
- [American Association of Retired Persons \(AARP\): All About Accessory Dwelling Units](#) – Free publications, and more, about how ADUs expand housing options for people of all ages.
- [American Planning Association \(APA\): Accessory Dwelling Units](#) – Webpage with reports, briefing papers, articles, case studies, videos, and more.
- [A Regional Coalition for Housing \(ARCH\): Accessory Dwelling Unit](#) – A comprehensive, user-friendly website from an affordable housing partnership organization focused on serving East King County.
- [MRSC: Accessory Dwelling Units](#) – Webpage that provides a good summary about ADUs.
- [Puget Sound Regional Council Housing Innovations Program: Accessory Dwelling Units](#) (2020) – Guide that includes an overview of ADUs in the Puget Sound region, along with model policies and regulations.
- [Shelterforce: ADUs - Laws and Uses, Do's and Don'ts](#) – Summary of some key debates pertaining to ADU rentals.
- [University of Toronto: "The Citizen Developer" video \(YouTube\)](#) – Short video discussing the benefits of small-scale housing.

Non owner ADU

george lowe <george.lowe@hotmail.com>

Tue 12/5/2023 11:31 AM

To: Libby Grage <LibbyB@cityofanacortes.org>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

As a homeowner and resident of Anacortes, I understand the need for more affordable housing in the city of Anacortes. In my former 40 year residence in the city of Kent Washington, I had several neighboring properties rented out and witnessed the deterioration of the neighborhood in areas such as crime and noise pollution. My wish is to keep the requirement for owner occupancy on any property with an ADU. I would suggest planning for and constructing more multi unit housing. Thank you, George Lowe

Zoning Changes.docx

Dean and Lisa Maxwell <magg21@frontier.com>

Tue 12/5/2023 6:58 PM

To: Libby Grage <LibbyB@cityofanacortes.org>

Cc: City Council <citycouncil@cityofanacortes.org>

 1 attachments (12 KB)

Zoning Changes.docx;

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Good day, Planning Commissioners,

Introduction

As an interested community member, I have supported allowing duplexes in the R2 zone and triplexes and fourplexes in the R 3 zone through a Conditional Use process, a process that allowed neighbors to be consulted on the building dimensions and location. It also allowed for discussion and mitigation of water, sewer, stormwater, parking, solar, traffic and view impacts. To quote former City Council member Bud Rock: “neighbors have property rights too” Given our housing challenges, I could support a streamlined administrative conditional use process, but not one that eliminated input from neighbors. Otherwise the proposed zoning amendments would appear on their face to fail to comply with the City Comprehensive Plan, its Vision Statement, Goals, and Policies.

State Environmental Policy Act (SEPA)

A sweeping proposal such as this surely requires more than unsupported declarations in a SEPA Checklist that somehow there will be no impacts. The City’s January 2023 Housing Action Plan could, if fully implemented, dramatically increase the population of our City, require hugely expensive infrastructure upgrades, and destroy significant habitat. Yet, in section after section of the SEPA Checklist the assertion is “no impact”. Frankly, this is very hard to accept when it would significantly alter the character of our small town. As an aside, when the Growth Management Act passed in 1990 our community agreed to embrace its small town character and have its State mandated population allocation absorbed by other cities in the county, Mount Vernon in particular.

Small Cities under 25,000 population

In its recent housing legislation the State legislature carved out an exception to mandatory density increases for small cities, allowing them the opportunity to address their unique history and character. This proposal to allow duplexes etc by right across most of the City fails to take advantage of this opportunity for a careful, thoughtful approach to addressing community housing needs. It also fails to address the State and City Housing Action Plans guidelines that planning actions address the needs of all income sectors. There are proven ways to do this without a sledgehammer approach to zoning regulations that homeowner after homeowner have relied upon for decades. For instance, could the City not assess an affordable housing fee in conjunction with permission to build a duplex in the R2 zone?

Community Dialogue

I respectfully submit that a proposal on this scale should begin with a mailed notice to every property owner in the R2 and R 3 zone, followed by community workshops. ‘Budget constraints’ appear to have lead to proposals such as this being forwarded without the necessary background information and staff reports. For instance, the Housing Needs Analysis needs to be updated to address the recently expanded critical area buffers and include innovative techniques such as planned unit developments and transfer of development rights.

Thank you for this opportunity to comment.

H.Dean Maxwell

LEG-2023-05 Amend AMC Section 19.47.030

allen rhoades <allenrhoades@yahoo.com>

Tue 12/5/2023 11:33 AM

To: Libby Grage <LibbyB@cityofanacortes.org>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Libby,

I am responding with written comment as a citizen and as a board member of the Stittwood Property Owners Association, to the proposed amendment to

AMC Sec on 19.47.030 Accessory dwelling units that would remove the requirement for owner occupancy on a property with an accessory dwelling unit.

Having experienced a change from the requirement that an owner live on site, I have witnessed the deterioration of the property and general behavior of renters resulting in a neighborhood deterioration, as well.

Allen Rhoades

206-819-3093
4105 Mitchell Dr.
Anacortes, Wa 98221

Owner Occupancy Rule for ADU's

Rod Rothlisberger <rothlisb@gmail.com>

Tue 12/5/2023 10:41 AM

To: Libby Grage <LibbyB@cityofanacortes.org>

Cc: Rod Rothlisberger <rothlisb@gmail.com>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Having experienced a change from the requirement that an owner live on site, I've witnessed the deterioration of the property and general behavior of renters resulting in a neighborhood deterioration, as well. Living in Stittwood, I thought I was buying into a community that could control such rule changes.

Rod Rothlisberger
4222 Mitchell Drive
Anacortes, WA 98221

360-982-2261

Proposal AMC 1947

margaret jean shepherd <vbmargaret@gmail.com>

Tue 12/5/2023 9:57 AM

To: Libby Grage <LibbyB@cityofanacortes.org>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

I object to Proposal AMC 1947. I am a homeowner in Anacortes, Stittwood neighborhood. Our HOA currently regulates ADUs and does not permit them to be leased or rented out unless the property is owner-occupied. I believe a change to non-owner-occupied ADAs could be detrimental to our Stittwood neighborhood. Thank you for registering my objection.

margaret shepherd
4210 Brant Circle
Anacortes WA 98221

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"Sometimes your only available transportation is a leap of faith." - Margaret J Shepherd

ADU's. Comments for December 13 planning commission

William Turner <bill.h.turner@gmail.com>

Tue 12/5/2023 11:25 AM

To: Libby Grage <LibbyB@cityofanacortes.org>

Cc: John Coleman <johnc@cityofanacortes.org>; Sally Turner <sallycturner@gmail.com>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Libby,

As past president of Skagit Habitat for Humanity (SHFH), and past City Council member, I am excited by HB1337 and our adoption of those new rules. ADU's are a great addition to our tools for Anacortes' need for more affordable housing.

I would suggest though that we take some time to adopt, so that the City can educate our citizens of these new rules. I believe you have until 2025 to adopt. I would love to be a part of citizen meetings to flesh out our own city's needs and get comments from citizens. There are important choices to be made. We want to avoid a backlash.

I live in the R-3 zone and see many lots that could take advantage of these new rules, for lots of reasons, including income and the fact that most of R-3 is closer to shopping, schools, exercise, etc. We desperately need more rentals, ways for older folks to increase income, and space for workers to live on island. I fear that soon only the rich can move here, not good planning for a healthy vibrant community.

Of course, the R-2 zone needs more affordability also. We should make it easier to add another living space there too, as they usually have more land to build on. The biggest single issue for SHFH has been land cost. Especially here in Cantaffordus 🤔.

The big question is where in Anacortes is it appropriate for ADU's? Hence citizen input.

I look forward to these discussions and adoption of HB1337. I want a community that has a balance of children, workers, development and jobs, not a Carmel North. Are we going to force lower economic classes to go East or will we find a place here for all?

Bill Turner

Retired builder

Past President SHFH

Past City Council for 8 years

Lover of our inclusive community

Re: Proposal AMC 1947

EJ Waits <earljwaits@gmail.com>

Tue 12/5/2023 10:31 AM

To: margaret jean shepherd <vbmargaret@gmail.com>

Cc: Libby Grage <LibbyB@cityofanacortes.org>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

I am opposed to the proposal to allow Stittwood properties with ADUs to be completely non-owner occupied. Having an owner onsite helps to ensure that properties are properly maintained and managed.

Earl J. Waits

Some day you will be old enough to start reading fairy tales again.

— C. S. Lewis

On Tue, Dec 5, 2023 at 9:57 AM margaret jean shepherd <vbmargaret@gmail.com> wrote:

I object to Proposal AMC 1947. I am a homeowner in Anacortes, Stittwood neighborhood. Our HOA currently regulates ADUs and does not permit them to be leased or rented out unless the property is owner-occupied. I believe a change to non-owner-occupied ADAs could be detrimental to our Stittwood neighborhood. Thank you for registering my objection.

margaret shepherd
4210 Brant Circle
Anacortes WA 98221

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"Sometimes your only available transportation is a leap of faith." - Margaret J Shepherd

FW: City Proposal LEG-2023-04

paula.woods@comcast.net <paula.woods@comcast.net>

Tue 12/5/2023 8:50 AM

To: Libby Grage <LibbyB@cityofanacortes.org>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

We oppose the proposal to remove the requirement for owner occupancy on a property with an accessory dwelling unit. With no owner occupancy to keep units in check, rental units can easily deteriorate the surrounding neighborhood. We want the owner occupancy to remain a requirement.

Thank you,

Paula Woods
Stittwood Property Owners Association Secretary

LEG-2023-04 et al

afa@isomedia.com <afa@isomedia.com>

Wed 12/6/2023 3:33 PM

To: Libby Grage <LibbyB@cityofanacortes.org>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Dec. 6, 2023

Members of the Anacortes Planning Commission:

Please consider delaying approval of the above-mentioned proposal and any related proposals now before the commission.

Considering the magnitude of these proposals and the extremely short notice given the public to thoughtfully examine them, I believe the city is best served by transparency, substantial public review and debate, and an explanation as to the haste behind such proposals.

I am puzzled beyond belief that such land use proposals have emerged with little to no public involvement. What's the big rush?

Sincerely,
Duncan Frazier
400 East Park Drive
Anacortes, WA 98221

Owner Occupancy Rule

Linda Macy <lindasm1958@gmail.com>

Wed 12/6/2023 11:17 AM

To: Libby Grage <LibbyB@cityofanacortes.org>

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

I do not wish this change to the protection the neighborhood of Stittwood presently has requiring an owner be a resident of one of the homes. Stittwood has maintained an owner association with provisions to protect property values and quiet environment.

Linda Macy, Stittwood for greater than 20 years, Anacortes resident over 50 years. 360-708-8284
<lindasm1958@gmail.com>

Determination of Non-Significance for Proposed Code Amendments

DESCRIPTION OF PROPOSAL: The City of Anacortes is considering code amendments to the below-described chapters of the Anacortes Municipal code (AMC) as follows:

- **LEG-2023-02** – Amend Anacortes Municipal Code (AMC) Ch. 19.49 *Nonconforming uses and structures* to add reconstruction and addition provisions for nonconforming historic buildings
- **LEG-2023-04** – Amend AMC Section 19.41.040 *Principal uses permitted in residential zones* and AMC 19.43.010 *Household living* to:
 - Change duplexes from a conditional use to a permitted outright use in the R2 zone
 - Change triplexes, townhouses (up to 4 units) and multi-family (up to 4 units), from conditional uses to permitted outright uses in the R3 zone
- **LEG-2023-05** – Amend AMC Section 19.47.030 *Accessory dwelling units* to remove the requirement for owner occupancy on a property with an accessory dwelling unit

LOCATION: These are non-project actions that would apply city-wide.

PROPONENT & LEAD AGENCY: City of Anacortes, Planning, Community and Economic Development (PCED) Department.

CONTACT PERSON: Libby Grage, Planning Manager; libbyb@cityofanacortes.org; 360-299-1986; PO Box 547, Anacortes, WA 98221

The lead agency for this proposal has determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

ENVIRONMENTAL DETERMINATION COMMENTS: This DNS is issued under WAC [197-11-340\(2\)](#); the lead agency will not act on this proposal for 14 days from the date below. Comments on the environmental determination must be received in writing on or before 5:00 PM **December 6, 2023** (14 days from the date of issuance). Comments received within the 14 days will be reviewed and considered by the PCED Department.

Responsible Official: John Coleman, AICP
Position and Title: Director of Planning, Community & Economic Development
Phone/Email: 360-299-1942; johnc@cityofanacortes.org
Address: P.O. Box 547, Anacortes, WA 98221

Date: 11-22-23

Signature _____



ENVIRONMENTAL DETERMINATION APPEAL PROCESS: You may appeal this determination to the Hearing Examiner. Appeals must be on forms provided by the Department and delivered, along with the appeal fee, to the City Clerk no later than 5:00 PM **December 6, 2023**. You should be prepared to make specific factual objections. Contact the PCED Department to read or ask about the procedures for SEPA appeals (AMC 19.20.180).

ISSUED AND PUBLISHED: November 22, 2023

SENT TO: SEPA Register, Corps of Engineers, DAHP, WDFW, WA Health, DNR, WSDOT, DOE, NW Clean Air, Skagit Transit, Skagit County PDS, County Assessor, Port of Anacortes, Anacortes School District, Skagit Coop, Swinomish and Samish Tribes, PSE, Frontier, CNG and Comcast

SEPA¹ Environmental Checklist

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in “Part B: Environmental Elements” that do not contribute meaningfully to the analysis of the proposal.

¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/Checklist-guidance>

A. Background

[Find help answering background questions](#)²

1. Name of proposed project, if applicable:

Proposed code amendments

2. Name of applicant:

City of Anacortes Planning, Community & Economic Development Department

3. Address and phone number of applicant and contact person:

Libby Grage, Planning Manager, 360-299-1986; libbyb@cityofanacortes.org; P.O. Box 547;
Anacortes, WA 98221

4. Date checklist prepared:

November 16, 2023

5. Agency requesting checklist:

City of Anacortes Planning, Community & Economic Development Department

6. Proposed timing of schedule (including phasing, if applicable):

Planning Commission review, public hearing, and recommendation – November/December 2023

City Council review and adoption – January/February 2024

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

None

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

This is a non-project action affecting multiple parcels in the City of Anacortes.

10. List any government approvals or permits that will be needed for your proposal, if known.

The City of Anacortes City Council would need to approve the proposed amendments and adopt them by ordinance.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on

² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background>

this page. (Lead agencies may modify this form to include additional specific information on project description.)

The proposal is to amend the Anacortes Municipal Code as follows:

- **LEG-2023-02** – Amend Anacortes Municipal Code (AMC) Ch. 19.49 *Nonconforming uses and structures* to add reconstruction and addition provisions for nonconforming historic buildings
- **LEG-2023-04** – Amend AMC Section 19.41.040 *Principal uses permitted in residential zones* and AMC 19.43.010 *Household living* to:
 - Change duplexes from a conditional use to a permitted outright use in the R2 zone
 - Change triplexes, townhouses (up to 4 units) and multi-family (up to 4 units), from conditional uses to permitted outright uses in the R3 zone
- **LEG-2023-05** – Amend AMC Section 19.47.030 *Accessory dwelling units* to remove the requirement for owner occupancy on a property with an accessory dwelling unit

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposed updates would be effective city-wide.

B.Environmental Elements

1. Earth

[Find help answering earth questions³](#)

a. General description of the site:

The City of Anacortes includes a variety of terrain, including flat, rolling, hilly, and steep slopes.

Circle or highlight one: Flat, rolling, hilly, steep slopes, mountainous, other:

b. What is the steepest slope on the site (approximate percent slope)?

Anacortes includes a variety of slopes throughout the city, including certain areas with up to 100% slope. The steepest slopes are primarily located along the marine shoreline and Mount Erie.

³ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-earth>

- c. **What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.**

Soils within the city Bellingham silt loam, Bow gravelly loam, Bow-Urban land complex, Catla gravelly fine sandy loam, Clallam gravelly loam, Coveland gravelly loam, Coveland-Bow complex, Dystric Xerochrepts, Fidalgo-Lithic Xerochrepts Rock outcrop complex, Guemes very stony loam, Guemes very gravelly loam, sandy substratum, Hydraquents, tidal, Keystone loamy sand, Laconner very gravelly loamy sand, Lithic Haploxerolls – Rock outcrop complex, Mukilteo muck, Norma silt loam, Pits, Swinomish gravelly loam, Swinomish-Fidalgo Rock outcrop complex, Tacoma silt, Tacoma silt loam, Terric Medisaprists, Whistle-Fidalgo-Rock outcrop complex, and Xerorthents.

There are no known agricultural lands of long-term commercial significance.

Because this proposal is non-project in nature, it will not result in any soil removal.

- d. **Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**

Geologically hazardous areas within the City include steep slopes, landslide and erosion hazards, and seismic hazards (liquefaction prone areas). These hazard areas are concentrated along the northern portion of Anacortes near Guemes Channel and Burrows Bay near Washington Park. Liquefaction prone areas are located in areas of modified shorelines near Skyline and the eastern part of the city along Fidalgo Bay.

- e. **Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.**

This non-project proposal directly result in any filling, excavation, or grading.

- f. **Could erosion occur because of clearing, construction, or use? If so, generally describe.**

Because this proposal is non-project in nature, it will not directly result in any erosion.

- g. **About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**

This non-project proposal will not directly result in the addition of any impervious surface.

- h. **Proposed measures to reduce or control erosion, or other impacts to the earth, if any.**

This non-project proposal will not directly result in any erosion or other impacts to the earth.

2. Air

[Find help answering air questions](#)⁴

- a. **What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**

This non-project proposal will not directly result in any emissions to the air.

- b. **Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

This non-project proposal will not be affected by emissions or odor.

- c. **Proposed measures to reduce or control emissions or other impacts to air, if any:**

None.

3. Water

[Find help answering water questions](#)⁵

- a. **Surface:**

[Find help answering surface water questions](#)⁶

1. **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

Anacortes is surrounded on three sides by marine shorelines including Guemes Channel, Burrows Bay, Fidalgo Bay, and a portion of Padilla Bay, with lakes including Little Cranberry, Heart, Whistle, and a portion of Lake Erie.

There are multiple streams located within city limits including Whistle Creek, Happy Valley Stream, Ace of Hearts Creek, Beaver Brook, Cranberry Creek, Clyde Creek, Anaco Bourn, Morrison Run, Cedar Springs, Weaverling Rill, Miller Creek, Aqua Creek, Howard Creek, Summit Creek, and March's Run.

2. **Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

No, this is a non-project action.

⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-Air>

⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water>

⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Surface-water>

3. **Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

This non-project proposal will not involve any fill or dredging of surface waters or wetlands.

- a. **Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.**

This non-project proposal will not require surface water withdrawals or diversions.

4. **Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

Parts of Anacortes are located within the 100-year floodplain as mapped by the Federal Emergency Management Agency (FEMA) flood insurance rate maps (FIRMs)

5. **Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

This non-project proposal will not involve any discharges of waste materials to surface waters.

b. Ground:

[Find help answering ground water questions⁷](#)

1. **Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.**

This non-project proposal will not involve withdrawal of groundwater from a well for drinking water or any other purpose, nor will it involve discharges to groundwater.

2. **Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

This non-project proposal will not involve discharge of waste into the ground.

c. Water Runoff (including stormwater):

1. **Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

This non-project proposal will not generate stormwater.

⁷ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Groundwater>

2. Could waste materials enter ground or surface waters? If so, generally describe.

This non-project proposal will not involve waste materials entering the ground or surface waters.

3. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

This non-project proposal will not affect drainage patterns.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

None.

4. Plants

[Find help answering plants questions](#)

a. Check the types of vegetation found on the site:

- ☒ **deciduous tree: alder, maple, aspen, other**
- ☒ **evergreen tree: fir, cedar, pine, other**
- ☒ **shrubs**
- ☒ **grass**
- ☒ **pasture**
- ☐ **crop or grain**
- ☒ **orchards, vineyards, or other permanent crops.**
- ☒ **wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other**
- ☒ **water plants: water lily, eelgrass, milfoil, other**
- ☒ **other types of vegetation**

b. What kind and amount of vegetation will be removed or altered?

This non-project proposal will not result in vegetation removal or alteration.

c. List threatened and endangered species known to be on or near the site.

Various species of rare plants, listed by the Washington Natural Heritage Program, may occur within the city.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

None.

e. List all noxious weeds and invasive species known to be on or near the site.

Various species of noxious weeds and invasive species are known to occur throughout Anacortes.

5. Animals

[Find help answering animal questions](#)⁸

- a. **List any birds and other animals that have been observed on or near the site or are known to be on or near the site.**

Examples include:

- **Birds:** hawk, heron, eagle, songbirds, other:
- **Mammals:** deer, bear, elk, beaver, other:
- **Fish:** bass, salmon, trout, herring, shellfish, other:

Many species of birds, mammals, and fish are known to occur throughout Anacortes.

- b. **List any threatened and endangered species known to be on or near the site.**

Bull trout, Puget Sound Chinook, Puget Sound Steelhead, Southern Resident Killer Whale, Yelloweye Rockfish, Bocaccio Rockfish and Marbled Murrelet are known to occur along the marine shoreline of Anacortes.

- c. **Is the site part of a migration route? If so, explain.**

Anacortes is within located within the Pacific Flyway migration route utilized by waterfowl migrating north into Alaska and northern Canada.

- d. **Proposed measures to preserve or enhance wildlife, if any.**

None.

- e. **List any invasive animal species known to be on or near the site.**

None known.

6. Energy and natural resources

[Find help answering energy and natural resource questions](#)⁹

- a. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

This non-project proposal will not result in any energy use.

- b. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

This non-project proposal will not affect the potential use of solar energy by adjacent properties.

⁸ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-5-Animals>

⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-6-Energy-natural-resou>

- c. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.**

None.

7. Environmental health

[Health Find help with answering environmental health questions](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-7-Environmental-health)¹⁰

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.**

This non-project proposal will not result in any environmental health hazards.

1. **Describe any known or possible contamination at the site from present or past uses.**

Anacortes has various sites that have known or possible contamination from present or past uses.

2. **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

This non-project proposal is not expected to be affected by hazardous chemicals/conditions.

3. **Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

This non-project proposal will not result in storage, use or production of hazardous chemicals.

4. **Describe special emergency services that might be required.**

This non-project proposal will not result in the need for any special emergency services.

5. **Proposed measures to reduce or control environmental health hazards, if any.**

None.

b. Noise

1. **What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

This non-project proposal will not be affected by noise in the area.

¹⁰ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-7-Environmental-health>

- 2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?**

This non-project proposal would not create any noise.

- 3. Proposed measures to reduce or control noise impacts, if any:**

None.

8. Land and shoreline use

[Find help answering land and shoreline use questions](#)¹¹

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

Land uses throughout the city include residential, recreational, industrial, multi-family, public and institutional uses, and vacant land. Because the proposal is non-project in nature, it will not affect current land uses on properties in the city.

- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?**

There are no known working farmlands or working forest lands within the Anacortes city limits.

- 1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?**

No.

- c. Describe any structures on the site.**

There are a variety of structures located throughout city limits.

- d. Will any structures be demolished? If so, what?**

This non-project proposal will not result in the demolition of any structures.

- e. What is the current zoning classification of the site?**

Anacortes includes a variety of zoning designations.

- f. What is the current comprehensive plan designation of the site?**

Anacortes includes a variety of comprehensive plan designations.

- g. If applicable, what is the current shoreline master program designation of the site?**

¹¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-8-Land-shoreline-use>

Anacortes includes a variety of shoreline master program designations along its marine shoreline and freshwater lakes.

- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.**

A variety of classified critical areas are known to be located within the city, including wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas.

- i. Approximately how many people would reside or work in the completed project?**

Because this is a non-project proposal, this question is not applicable.

- j. Approximately how many people would the completed project displace?**

Because this proposal is non-project in nature, zero people would be displaced as part of the project.

- k. Proposed measures to avoid or reduce displacement impacts, if any.**

None.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.**

This non-project proposal is not anticipated to result in any incompatibility issues.

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

None.

9. Housing

[Find help answering housing questions](#)¹²

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

Because this is a non-project proposal, no new housing units would be provided.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

Because this is a non-project proposal, no housing units would be eliminated.

- c. Proposed measures to reduce or control housing impacts, if any:**

None.

¹² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-9-Housing>

10. Aesthetics

[Find help answering aesthetics questions](#)¹³

- a. **What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

This non-project proposal will not directly result in any structures being built.

- b. **What views in the immediate vicinity would be altered or obstructed?**

None – this is a non-project proposal.

- c. **Proposed measures to reduce or control aesthetic impacts, if any:**

None.

11. Light and glare

[Find help answering light and glare questions](#)¹⁴

- b. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

This non-project proposal would not produce any light or glare.

- c. **Could light or glare from the finished project be a safety hazard or interfere with views?**

No.

- d. **What existing off-site sources of light or glare may affect your proposal?**

None.

- e. **Proposed measures to reduce or control light and glare impacts, if any:**

None.

12. Recreation

[Find help answering recreation questions](#)

- a. **What designated and informal recreational opportunities are in the immediate vicinity?**

Anacortes contains many designated and informal recreational opportunities, including city parks, the Anacortes Community Forest Lands, beaches, trails, boating, and more.

- b. **Would the proposed project displace any existing recreational uses? If so, describe.**

No.

- c. **Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**

¹³ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-10-Aesthetics>

¹⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-11-Light-glare>

None.

13. Historic and cultural preservation

[Find help answering historic and cultural preservation questions](#)¹⁵

- a. **Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.**

There are many buildings in Anacortes that are over 45 years old. Some of them are eligible for listing, or are listed, in national, state, or local preservation registers.

- b. **Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.**

There are landmarks, features, or other evidence of Indian or historic use or occupation in various locations throughout Anacortes.

- c. **Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.**

Staff referred to the department of archaeology and historic preservation and the Anacortes register of historic places, but because the proposal is non-project in nature, it will not have a direct impact on any cultural or historic resources.

- d. **Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

None.

14. Transportation

[Find help with answering transportation questions](#)¹⁶

- a. **Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

There are a variety of public streets and highways in Anacortes.

- b. **Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

Skagit Transit provides public transit service throughout Anacortes.

¹⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-13-Historic-cultural-p>

¹⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-14-Transportation>

- c. **Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

Because this proposal is non-project in nature, it will not require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities.

- d. **Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

This non-project proposal will not use water, rail or air transportation.

- e. **How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

This non-project proposal will not generate any vehicular trips.

- f. **Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

This non-project proposal will not affect or be affected by movement of agricultural and forest products on roads or streets.

- g. **Proposed measures to reduce or control transportation impacts, if any:**

None.

15. Public services

[Find help answering public service questions¹⁷](#)

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

This non-project proposal will not result in an increased need for public services.

- b. **Proposed measures to reduce or control direct impacts on public services, if any.**

None.

16. Utilities

[Find help answering utilities questions¹⁸](#)

- a. **Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:**

All of the above utilities are available within the Anacortes city limits.

¹⁷ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-15-public-services>

¹⁸ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-16-utilities>

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

This non-project proposal will not result in the need for any utility services.

C. Signature

[Find help about who should sign](#)¹⁹

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.



Type name of signee: Libby Grage

Position and agency/organization: Planning Manager, PCED Department, City of Anacortes

Date submitted: November 20, 2023

D. Supplemental sheet for nonproject actions

[Find help for the nonproject actions worksheet](#)²⁰

Do not use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The proposed amendments are not anticipated to result in an increase in discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise as compared to existing land use plans.

- Proposed measures to avoid or reduce such increases are:

None.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

¹⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-C-Signature>

²⁰ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-d-non-project-actions>

The proposed amendments are not likely to affect plants, animals, fish, or marine life.

- **Proposed measures to protect or conserve plants, animals, fish, or marine life are:**
None.

3. How would the proposal be likely to deplete energy or natural resources?

The proposed amendments are not likely to deplete energy or natural resources.

- **Proposed measures to protect or conserve energy and natural resources are:**
None.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The proposed amendments are not likely to affect environmentally sensitive areas or areas designated for governmental protection.

- **Proposed measures to protect such resources or to avoid or reduce impacts are:**
None.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The proposed amendments are not likely to affect land and shoreline use

- **Proposed measures to avoid or reduce shoreline and land use impacts are:**
None.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The proposed amendments are not likely to increase demands on transportation or public services and utilities.

- **Proposed measures to reduce or respond to such demand(s) are:**
None.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

- The proposed amendments are not anticipated to conflict with local, state, or federal laws, or requirements for protection of the environment.
 - Amendments to AMC Section 19.47.030 *Accessory dwelling units* to remove the requirement for owner occupancy on a property with an accessory dwelling unit will partially implement HB 1337 involving new state requirements for ADUs, which include prohibiting local jurisdictions from requiring owner-occupancy.

- Amendments changing the review process for duplexes and triplexes in certain zones from a conditional use permit review process to permitted outright is consistent with local plans and state housing guidance to reduce barriers to building middle housing types.
- Amendments to allow for reconstruction of nonconforming structures that are on a local, state or federal historic register are in line with city and state historic preservation goals.



Notice of Availability

Including written comment period, public hearing date, and environmental determination

Publish Date:	November 22, 2023
Proposal Name:	City of Anacortes proposed amendments to Anacortes Municipal Code (AMC) Chapter 19.49 <i>Nonconforming uses and structures</i> , AMC 19.41.040 <i>Principal uses permitted in residential zones</i> , AMC 19.43.010 <i>Household living</i> , and AMC 19.47.030 <i>Accessory dwelling units</i>
Documents Available At:	https://www.anacorteswa.gov/1547/Legislative-Planning-Updates
Lead Agency:	City of Anacortes, Planning, Community & Economic Development Department
SEPA Responsible Official:	John Coleman, AICP, Director
Written Comment Deadline:	Wednesday, December 6, 2023
Public Hearing Date:	Wednesday, December 13, 2023 at 6:00 PM
Public Hearing Body:	Anacortes Planning Commission City Hall Council Chambers 904 6 th Street, Anacortes, WA 98221
Contact Person:	Libby Grage, Planning Manager libbyb@cityofanacortes.org ; 360-299-1986

Proposal File Number(s) & Description(s):

- **LEG-2023-02** – Amend Anacortes Municipal Code (AMC) Ch. 19.49 *Nonconforming uses and structures* to add reconstruction and addition provisions for nonconforming historic buildings
- **LEG-2023-04** – Amend AMC Section 19.41.040 *Principal uses permitted in residential zones* and AMC 19.43.010 *Household living* to:
 - Change duplexes from a conditional use to a permitted outright use in the R2 zone
 - Change triplexes, townhouses (up to 4 units) and multi-family (up to 4 units), from conditional uses to permitted outright uses in the R3 zone
- **LEG-2023-05** – Amend AMC Section 19.47.030 *Accessory dwelling units* to remove the requirement for owner occupancy on a property with an accessory dwelling unit

SEPA Threshold Determination

The City of Anacortes has determined that this proposal does not have a probable significant adverse impact on the environment. An environmental impact statement is not required under the State Environmental Policy Act, RCW 43.21C.030(2)(c). This determination was made after review of a completed environmental checklist and other information on file with the lead agency and is available upon request.

The threshold determination is issued under a separate cover, available on the website and the address above. The City of Anacortes will not act on this proposal during the comment period. Written comments regarding the Determination of Nonsignificance must be submitted by the deadline above and in the same manner as other comments. Appeals of this environmental determination may be made per the procedures outlined in AMC Ch. 18.04 and Ch. 19.20 by December 6, 2023, at 5:00 PM. Additional information regarding the appeal process may be obtained from the City of Anacortes PCED Department, 360-299-1984.

How to Comment

Comments are accepted via email, paper, or verbally.

Email comments are preferred and must be sent to libbyb@cityofanacortes.org.

Paper comments may be mailed or delivered to:

City of Anacortes
Planning, Community & Economic Development Department
ATTN: Libby Grage
P.O. Box 547 / 904 6th St.
Anacortes, WA 98221

Verbal comments may be made at the Public Hearing. The public hearing will be held as hybrid meeting, with virtual and in-person attendance options. Virtual meeting access and participation information can be found here:

<https://www.anacorteswa.gov/700/Meeting-Documents-and-Video>