

ORDINANCE NO. 10643

AN ORDINANCE RELATING TO LAND USE PLANNING AND AMENDING THE LAND USE DEVELOPMENT ORDINANCE TO ALLOW ACCESSORY DWELLING UNITS IN SINGLE FAMILY, MULTI-FAMILY AND CERTAIN COMMERCIAL ZONING DISTRICTS. THE AMENDMENT WILL ADD SECTION 20.10.035 TO THE BELLINGHAM MUNICIPAL CODE. IN ADDITION, THE FOLLOWING BELLINGHAM MUNICIPAL CODE SECTIONS WILL BE AMENDED: 20.08.020, 20.12.010, 20.16.020, 20.30.030, 20.32.030, 20.34.030, AND 20.38.050.

WHEREAS, RCW 43.63 A Section 7 which deals with affordable housing requires cities with populations over 20,000 to adopt accessory dwelling unit regulations, and

WHEREAS, accessory dwelling units will aid in meeting affordable housing policies as outlined in the Comprehensive Plan, Visions for Bellingham, and County-Wide Planning Policies, and

WHEREAS, the regulations for accessory dwelling units provide infill opportunities, while using existing public facilities and maintaining the character of single family neighborhoods, and

WHEREAS, a Determination of Nonsignificant Environmental Impact was issued on December 1, 1994 by the responsible official under the procedures of the State Environmental Policy Act, and

WHEREAS, the Planning Commission held public hearings according to law on September 22, 1994 and October 20, 1994 and made recommendations for approval to the City Council, and

0008.CFD (1)

**City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington
98225
Telephone (360)676-6903**

WHEREAS, the City Council held a public hearing according to law on December 5, 1994, took public testimony on January 23, 1995 at the Committee of the Whole meeting, held another public hearing on March 6, 1995, and conducted two work sessions,

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Section 20.10.035 (General Provisions) shall be added to the B.M.C. and shall read as follows:

.035 ACCESSORY DWELLING UNITS

A. Purpose and Authority

The Director shall have the authority to approve accessory dwelling units which are located within or attached to a single family residence and existing detached accessory dwelling units, consistent with single family neighborhood character and the regulations and provisions herein. It is not the intent of these regulations to provide for accessory dwelling units on every residential property and they shall not be deemed to create a right or privilege to establish or maintain an accessory dwelling unit which is not strictly in compliance with these regulations.

B. Attached Accessory Dwelling Unit

- (1) An attached accessory dwelling unit must not exceed 40% of the square footage of the conditioned floor area measured from the outside of the exterior walls of the single family residence, excluding garages, and shall contain a minimum square footage as required by the building code and a maximum square footage of

800 square feet. Only one accessory dwelling unit may be permitted per single family residence. (In the event an existing split-level single family home (home with more than one floor) is used and the applicant wishes to convert in excess of 40% of the square footage, a Conditional Use Permit may be granted to allow conversion up to a maximum of 50% with a maximum of 800 square feet. In addition, conversions which displace any covered parking must receive a Conditional Use Permit.)

- (2) Only one entrance for the entire structure may be visible from the front street. For the purposes of this ordinance the front street shall be defined as the street with the address. All additions constructed to house an ADU must have similar roof pitch, siding, and windows (to the extent allowed by the building code) as the existing single family dwelling.
- (3) All additions must meet all land use requirements for single family residences as outlined in Chapter 20.30.040.
- (4) The primary residence or the accessory dwelling unit must be owner occupied. A covenant, approved by the Department of Planning and Community Development, must be signed and recorded which specifies this requirement and the requirement for purchaser registration contained in subsection (g). In addition, an affidavit must be submitted to the Department on or before January 1 of every odd numbered year attesting to owner occupancy.
- (5) The total number of persons who may occupy the accessory dwelling unit shall not exceed three, regardless of relationship.

- (6) Purchasers of homes with an accessory dwelling unit must register with the Department of Planning and Community Development within 30 days of purchase.
- (7) One additional parking space on private property shall be provided for each bedroom located within the accessory dwelling unit. Each Accessory Dwelling Unit shall provide a minimum of one parking space. These parking spaces shall be in addition to those required for the single family residence. There shall be no net loss of existing parking due to the construction of an accessory dwelling unit.
- (8) No more than two bedrooms shall be located within the accessory dwelling unit.
- (9) A building permit must be obtained from the Building Services Division and shall be subject to the following requirements:

Public Works Requirements:

A single family home and an Accessory Dwelling Unit may share a common side sewer line to the sewer main.

A single family home and an Accessory Dwelling Unit shall have a minimum of one water meter.

Building Code Requirements:

Building Code Requirements shall be modified as specified in attached Exhibit "A". These requirements shall supercede the requirements of Bellingham Municipal Code Title 17 to the extent they conflict.

(10) Permitting Process

- (a) An Accessory Dwelling Unit permit application must be submitted to the Department of Planning and Community Development on such forms as to be determined by the Director of Planning and Community Development along with a list of property owners within 300 feet of the subject site based on current records of the Whatcom County Assessor, and an application fee in the amount established by Council Resolution. The application form shall contain information that the rental of accessory dwelling unit may be subject to the provisions of the Landlord Tenant Act, RCW 59.18.
- (b) A complete application shall consists of the following:
 - (1) Application form with required plans and information.
 - (2) Fee payment.
- (c) The Department of Planning and Community Development will send notice of the proposed ADU to Board of Adjustment members, affected City Departments and property owners within 300 feet of the site, as shown on the list provided by the applicant. In addition, the site shall be posted in conformance with the provisions outline in Chapter 20.10.015.
- (d) The Director of the Planning and Community Development Department shall make a decision on the project no sooner than 20 days and no later than 30 days from the mailing of

the notice, based on the information contained in the application and comments received from Board members, City staff, and neighboring property owners.

- (e) Notice of the decision will be sent to the applicant, property owners on the list provided by the applicant, and any other person who has requested said notice in writing. The notice shall contain information about the Administrative Appeal process and the deadline to appeal the decision to the Board of Adjustment.

C. Detached Accessory Dwelling Unit

(1) Authority:

No new accessory dwelling unit may be located within a detached structure. Unpermitted detached accessory dwelling units existing prior to January 1, 1995 may be permitted. Approval shall be consistent with the Accessory Dwelling Unit regulations and process outlined in Chapter 20.10.035. The detached Accessory Dwelling Unit shall be reviewed using the Building Code in place at the time its owner brings the unit forward for permit.

D. Existing Illegal Units

Application may be made for any accessory dwelling unit existing prior to January 1, 1995 to become legally permitted, pursuant to the provisions of this ordinance. If application is made within 18 months from the date of this ordinance (*December 26, 1996*) no penalty shall be imposed for the maintenance of the non-permitted accessory dwelling

unit. After such date and/or 30 days after denial of a permit for an accessory dwelling unit, the owner of any non-permitted unit shall be subject to the penalties provided in this code.

An application to legalize an existing accessory dwelling unit shall include an application for an accessory dwelling unit permit (submitted to the Department of Planning and Community Development) and a building permit application, showing changes made to the residence to accommodate the accessory dwelling unit.

Section 2. Section 20.08.020 A (Definitions) of the B.M.C. shall be amended by the addition of a new subsection 3 which shall read as follows:

- (3) **Accessory Dwelling Unit:** A second, subordinate dwelling unit for use as a complete, independent dwelling with permanent provisions for living, sleeping, eating, cooking, and sanitation.
- (a) **Attached Accessory Dwelling Unit:** An accessory dwelling unit located within or attached to a single family residence. To be considered attached the roof and wall of the accessory dwelling unit must be an extension of the roof and wall of the existing single family residence. In no case shall the attachment be made through an unenclosed structure.
- (b) **Detached Accessory Dwelling Unit:** No new accessory dwelling unit may be located within a detached structure. Unpermitted detached accessory dwelling units existing prior to January 1, 1995 may be permitted. Approval shall be consistent with the Accessory Dwelling Unit regulations and process outlined in Chapter 20.10.035. The detached Accessory Dwelling Unit shall be reviewed using the Building Code in place at the time its owner brings the unit forward for permit.

Section 3. Section 20.08.020 O (Definitions) of the B.M.C. shall be amended by the addition of a new subsection 5 which shall read as follows:

- (5) **Owner Occupied:** The property owner, one who holds legal or beneficial title to the real estate, including a contract purchaser, must make his or her legal residence at the site. In order to be a resident the property owner must reside at the site. At no time shall rent be collected for the owner occupied unit.

Section 4. Section 20.12.010 B (General Standards/Parking) of the B.M.C. shall be amended by the addition of subsection vi to subsection (3)a which shall read as follows:

USE

PARKING SPACE REQUIREMENT

- (a) **Residential**

vi. Accessory Dwelling Units

1 for each bedroom, minimum of one for each ADU. These spaces must be located on site.

Section 5. Section 20.16.020 A (Conditional Use) of the B.M.C. shall be amended by the addition of a new subsection 3 which shall read as follows:

- (3) **Accessory Dwelling Units**

- (a) **Definition - An accessory dwelling unit located within an existing split-level single family residence (home with more than one floor) which exceeds 40% of the square footage of the existing single family residence.**

OR

Any accessory dwelling unit which displaces covered parking for an existing single family residence.

- (b) Conditional in Residential Single, Residential Multiple, Neighborhood Commercial and Central Commercial.
- (c) Special Requirements:
 - i. The primary residence or the accessory dwelling unit must be owner occupied. A covenant, approved by the Department of Planning and Community Development, must be signed and recorded which specifies this requirement and the requirement for purchaser registration contained in Chapter 20.10.035A(2)(g). In addition, an affidavit must be submitted to the Department on or before January 1 of every odd numbered year attesting to owner occupancy.
 - ii. One additional parking space on private property shall be provided for each bedroom located within the accessory dwelling unit. Each Accessory Dwelling Unit shall provide a minimum of one parking space. These parking spaces shall be in addition to those required for the single family residence. There shall be no net loss of existing parking due to the construction of an accessory dwelling unit. When existing parking is displaced new parking must be located on site. New parking spaces shall be located off the alley if practical. Parking in the front portion of the lot shall be discouraged. Required parking for the ADU within the front yard setback shall be prohibited.

- iii. The total number of persons who may occupy the accessory dwelling unit shall not exceed three, regardless of relationship.
- iv. No more than two bedrooms shall be located within the accessory dwelling unit.
- v. A building permit must be obtained from the Building Services Division and shall be subject to the following requirements:

Public Works Requirements:

A single family home and an Accessory Dwelling Unit may share a common side sewer line to the sewer main.

A single family home and an Accessory Dwelling Unit shall have a minimum of one water meter.

Building Code Requirements:

Building Code Requirements shall be modified as designated in attached Exhibit "A". These requirements shall supercede the requirements of Bellingham Municipal Code Title 17 to the extent they conflict.

Section 6: Section 20.30.030 A (Single Family/Permitted Uses) of the B.M.C. shall be amended by the addition of new subsections 6 and 7 which shall read as follows:

- 6. Attached Accessory Dwelling Unit (consistent with procedures and requirements outlined in Section 20.10.035.)

7. Detached Accessory Dwelling Units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in Section 20.10.035).

Section 7: Section 20.30.030 B (Single Family/Conditional Uses) of the B.M.C. shall be amended by the addition of a new subsection 16 which shall read as follows:

- (16) Attached Accessory Dwelling Unit which exceeds 40% of the square footage of the existing single family residence, and Accessory Dwelling Units which displace existing covered parking (subject to standards found in Section 20.16.020A.(3).)

Section 8: Section 20.32.030 A (Multi-Family/Permitted Uses) of the B.M.C. shall be amended by the addition of new subsections 7 and 8 under Duplex and 3 and 4 under Multi which shall read as follows:

A.

Use Qualifier

Permitted Use

DUPLEX

(7) Attached Accessory Dwelling Units (Consistent with procedures and requirements outlined in Section 20.10.035).

(8) Detached Accessory Dwelling Units existing prior to January 1, 1995 (Consistent with procedures and requirements outlined in Section 20.10.035).

MULTIPLE

(3) Attached Accessory Dwelling Units
(Consistent with procedures and
requirements outlined in Section
20.10.035).

(4) Unpermitted detached Accessory
Dwelling Units existing prior to January
1, 1995 (Consistent with procedures
and requirements outlined in Section
20.10.035).

Section 9: Section 20.32.030 B (Multi-Family/Conditional Uses) of the B.M.C. shall
be amended by the addition of a new subsection 21 which shall read as follows:

(21) Attached Accessory Dwelling Unit which exceeds 40% of the square
footage of the existing single family residence, and Accessory Dwelling
Units which displace existing covered parking (subject to standards
found in Section 20.16.020A.(3).)

Section 10: Section 20.34.030 A (Commercial/Permitted Uses) of the B.M.C. shall
be amended by the addition of new subsections 18 and 19 under Neighborhood and
27 and 28 under Central which shall read as follows:

Use Qualifier

Permitted Use

Neighborhood

(18) ATTACHED ACCESSORY DWELLING UNIT
(Consistent with procedures and requirements
outlined in Section 20.10.035.)

(19) DETACHED ACCESSORY DWELLING UNIT EXISTING
PRIOR TO JANUARY 1, 1995 (Consistent with

procedures and requirements outlined in Section 20.10.035.)

Central

(27) ATTACHED ACCESSORY DWELLING UNIT

(Consistent with procedures and requirements outlined in Section 20.10.035.)

(28) DETACHED ACCESSORY DWELLING UNIT EXISTING

PRIOR TO JANUARY 1, 1995 (Consistent with procedures and requirements outlined in Section 20.10.035.)

Section 11: Section 20.34.030 B (Commercial/Conditional Uses) of the B.M.C. shall be amended by the addition of new subsections 11 under Neighborhood and 2 under Central which shall read as follows:

Use Qualifier

Neighborhood

(11) Attached Accessory Dwelling Unit which exceeds 40% of the square footage of the existing single family residence, and Accessory Dwelling Units which displace existing covered parking (subject to standards found in Section 20.16.020A.(3).)

Central

(2) Attached Accessory Dwelling Unit which exceeds 40% of the square footage of the existing single family residence, and Accessory Dwelling Units which displace existing covered parking (subject to standards found in Section 20.16.020A.(3).)

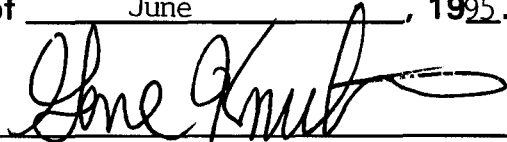
Section 12: Section 20.38.050 B (Planned Residential/Permitted Uses) of the B.M.C. shall be amended by the addition of new subsections j and k which shall read as follows:

- (j) attached accessory dwelling unit (consistent with procedures and requirements outlined in Section 20.10.035.)
- (k) detached accessory dwelling unit existing prior to January 1, 1995 (consistent with procedures and requirements outlined in Section 20.10.035.)

Section 13: The following Threshold and Review Process shall be followed:

- (a) This Accessory Dwelling Unit Ordinance shall be reviewed by the City Council:
 - (1) Two years from the effective date of the ordinance (*June 26, 1997*); or
 - (2) Within 60 days of the date the 200th accessory dwelling unit permit is issued, whichever is sooner.
 - (3) The Accessory Dwelling Unit Ordinance shall also be reviewed by the City Council after the 20th accessory dwelling unit permit is issued in any neighborhood as defined by the Comprehensive Plan. Once this threshold is met, no new permits may be issued in the affected neighborhood until the City Council has completed review of the ordinance.

PASSED by the Council this 12th day of June, 1995.


Council President

APPROVED by me this 20th day of JUNE, 1995.


Mayor

ATTEST: 
FOR Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

Published: JUNE 22, 1995

"EXHIBIT A"

CONVERTING AN EXISTING STRUCTURE TO INCLUDE A NEW ADU

An existing single family residence is altered, to create a new ADU within the structure, for a total of two dwelling units. One unit is owner occupied.

Utilities

The entire structure may be served by one shared underground service lateral, from the utility's main to the structure, for water, sewer and natural gas. An accessible shut off valve must be in place upstream of the gas meter, on the exterior of the structure. The water shut-off must be accessible to the occupants of both units.

Electrical

A single shared electrical service, a single meter, and a single main service panel would be allowed, provided that a) occupants of both dwelling units have equal and unrestricted access to the main electrical shut off device, and provided further that b) the capacity of the service panel shall be sufficient to safely handle the electrical loads attributed to two dwelling units, as determined by the electrical code in effect at the time application is made for permits relevant to the conversion.

Plumbing

Both dwelling units may share common supply and waste plumbing systems and a common water heater appliance, so long as the occupants of both dwelling units have equal and unrestricted access to the water heater appliance.

Heating

Both dwelling units may be provided their space heat by a shared, common forced air system (contrary to 1994 UMC 317.8) provided that a) listed fire/smoke dampers are properly installed at all duct penetrations through all structural elements (walls, floor, ceiling, etc.) which separate the two dwelling units, and b) listed carbon monoxide detector/alarm devices are installed in each of the dwelling units.

Smoke Detectors

Smoke detectors shall be installed throughout both dwelling units in compliance with the code's requirements for new construction in effect at the time application is made for permits associated with the conversion. All detectors, in both dwelling units, shall be interconnected so that the activation of any one detector at any location anywhere within the entire structure shall also activate all other detectors, in both dwelling units, throughout the entire structure.

Exiting

All components of the required exit systems in both dwelling units shall comply, as near as practicable, with code requirements in effect at the time application is made for permits associated with the conversion, especially with regard to egress windows in all rooms used for sleeping.

Fire Separation

Listed fire separation assemblies are preferred where the code requires a "one-hour" separation between dwelling units. Listed assemblies shall be provided wherever the construction of walls or floor/ceiling assemblies is new, constructed during the conversion. Where existing walls and/or floor/ceiling assemblies compose part or all of the separation, Building Services Division will accept nominal 2 inch studs or joist, on regularly spaced centers, enclosed completely in 0.5 inch gypsum wall board or an equivalent lath and plaster. Doors in tenant separation walls may be either listed 20-minute assemblies, or 1.75 inch thick solid-core tight fitting doors, equipped with a self-closing device and smoke gasketing material on both sides and the top of the door.

Ceiling Height

The minimum ceiling height for ADU's located within existing structures shall be seven feet.

NEW STRUCTURES AND ADDITIONS TO EXISTING STRUCTURES

Normal code compliance is appropriate for all newly built structures which incorporate a single family unit with an ADU, except for the following two provisions:

Electrical

The overall structure may be served by a single service and a single meter. Each dwelling unit must, however, be provided its own, separate main panel and disconnect. Occupants of each dwelling unit must be able to turn off the electrical power to their own dwelling unit without disrupting electrical service to the other dwelling unit.

Plumbing

The entire structure, including both dwelling units, may share a common water supply and waste plumbing systems. Each dwelling unit must, however, be provided its own separate hot water appliance, and occupants of each dwelling unit must have equal and unrestricted access to the main water shut off valve.

