

**AN ORDINANCE RELATING TO LAND USE REGULATION AND ZONING,
ADDING PROVISIONS FOR CO-HOUSING DEVELOPMENTS AND
AMENDING THE FOLLOWING SECTIONS OF THE BELLINGHAM
MUNICIPAL CODE: 20.08.020 C, 20.30.030 A., 20.32.030 A and 20.38,050 B.
(2) AND BY ADDING A NEW SECTION 20.10.048**

WHEREAS, Co-housing is a term used for certain types of housing developments designed by the intended occupants and containing common community facilities, and

WHEREAS, A number of co-housing groups have been formed within Washington State for the purpose of designing and building residential developments, and

WHEREAS, there is interest in developing co-housing projects in Bellingham, and a co-housing group has requested consideration of an amendment to zoning regulations to facilitate co-housing development in Residential Single zones, and

WHEREAS, the Planning Commission initiated review of a proposed amendment at a meeting on May 7, 1998, and

WHEREAS, the Comprehensive Plan envisions regulations that encourage and provide incentives for innovative housing and mixtures of housing types that preserve natural resources and consolidate open space, and

WHEREAS, the Planning and Development Commission held a public hearing on a proposed amendment to the Land Use Development Ordinance on June 18, 1998, and thereafter recommended approval of the amendment, and

WHEREAS, the City Council held a public hearing on July 27, 1998 to take testimony on the proposed amendment, and

WHEREAS, a determination of non-significant environmental impact was issued by the responsible official under the procedures of the Environmental Policy Act, and

WHEREAS, the City Council hereby adopts the Findings of Fact and Conclusions of the Planning Commission with the exception that the Council finds that a common building should be a required element of a co-housing development and that this change and other minor wording changes should be included in the ordinance;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. BMC Section 20.08.020 C. (10) through (23) are hereby renumbered (13) through (26) and new subsections (10), (11) and (12) regarding the definition of co-housing are hereby added as follows:

- (10) Co-housing: A residential development on one contiguous parcel of land, designed by and developed for members of an existing co-housing organization in which members of the co-housing organization will own and reside. A co-housing development shall consist of at least five (5) residential dwelling units and shall be operated as a condominium, co-op or similar form which allows for individual ownership of each dwelling unit. It shall also include one or more common structures containing a shared kitchen, library, computer room, laundry, greenhouse, play area or other common residential facilities for use by the residents.
- (11) Co-housing dwelling unit: An individual dwelling unit within a co-housing development that is privately owned.
- (12) Co-housing organization: A legal development entity, during development and construction of a co-housing project, that transforms into a legal residential association upon completion of the development and subsequent occupation of the dwelling units. Membership of the association is open only to owners of dwelling units in the development.

Section 2. BMC Section 20.30.030 A. is hereby amended as follows:

- A. Uses Permitted Outright. No building or land shall be used within an area designated residential single, except as follows:
 - (1) Single Family Dwelling Unit with less than 5,500 square feet of total floor area. (See Conditional Uses)
 - (2) Publicly Owned Parks and Playgrounds.
 - (3) Private Recreation Facilities, Recreational Vehicle Storage Lots and/or Common Open Space (when approved by Council as part of a subdivision).
 - (4) Mixed Use (where such a use is specifically listed in a neighborhood land use plan which has been designated with a "mixed" use qualifier).
 - (5) Public Utilities (when located within a public right of way).

- (6) Attached Accessory Dwelling Unit (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).
- (8) Confidential Shelters subject to the provision of Section 20.10.047.
- (9) Co-housing developments subject to the requirements of Section 20.10.048.

Section 3. BMC Section 20.32.030 A., Residential Multi Permitted Uses, is hereby amended as follows:

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

<u>Use Qualifier</u>	<u>Permitted Use</u>
DUPLEX	<ul style="list-style-type: none"> (1) SINGLE FAMILY DWELLING UNIT with less than 5,500 square feet of total floor area. (See Conditional Uses) (2) DUPLEX/ATTACHED SINGLE FAMILY DUPLEX (3) PUBLICLY OWNED PARKS AND PLAYGROUNDS. (4) PRIVATE RECREATIONAL FACILITIES, recreational vehicle storage lots or common open space (where approved by Council as part of an approved subdivision). (5) MIXED USE (where such a use is specifically listed in the neighborhood land use plan). (6) PUBLIC UTILITIES (when located within a public right of way).

- (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).
- (9) Confidential Shelters subject to the provisions of Section 20.10.047.
- (10) Co-housing developments, subject to the requirements of Section 20.10.048.

Section 4. BMC Section 20.38.050 B. (2), Planned Residential Range of Uses Possible, is hereby amended as follows:

- (2) Range of Uses Possible. Any of the following uses may be permitted in a planned proposal within a residential general use type designation; provided that any of such uses shall not be permitted where prohibited within the applicable neighborhood plan. Certain uses may also be excluded from a particular planned residential area if such use(s) are found by the Commission to be incompatible with the surrounding area or unsuitable to the particular site. The final decision shall set forth the uses permitted for the subject property.

Range of Uses

- (a) single family dwellings
- (b) duplexes
- (b) multi family dwelling units
- (d) manufactured homes
- (e) bed and breakfast facilities (subject to the standards found in Section 20.34.040 F3)
- (f) private or public parks, playgrounds, private recreational facilities, recreational vehicular storage areas and open space restricted to usage by the occupants within the planned area.
- (g) mixed use if specifically listed in the neighborhood land use plan

- (h) public utilities located in a public right of way or easement
- (i) any conditional use permitted in the Residential Multi Designation, Chapter 20.32.
- (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.)
- (l) confidential shelters subject to the provisions of Section 20.10.047.
- (m) co-housing, subject to the standards of Section 20. 10.048. The planned development process of this chapter shall apply.

Section 5. A new BMC Section 20. 10.048 is hereby added as follows:

.048 CO-HOUSING.

- A. Co-housing developments may be allowed in use districts where listed as a permitted use if they comply with the following requirements listed in this subsection. Co-housing projects that comply with the standard residential development regulations within a use district are exempt from this subsection.
- B. Approval Process. Co-housing projects opting to develop under this subsection and located in a Residential Single, Residential Multi Duplex or Residential Multi Multiple use district shall be processed as follows:
 - 1. A neighborhood meeting is required to be conducted by the applicant prior to submittal of an application. Notice of the date, time and location of the neighborhood meeting shall be mailed by the applicant to the Department of Planning and Community Development, the representative(s) to the Mayor's Advisory Commission for the applicable neighborhood(s), neighborhood and media organizations which have filed a written request with the Department of Planning and Community Development for the neighborhood involved, and owners, as listed in the records of the Whatcom County Assessor, of all property located within 300 feet of the subject property, not less than ten days prior to the meeting and posted conspicuously on the site for at least one week prior to the meeting. The notice shall be on a form

provided by the Department of Planning and Community Development and shall briefly describe the proposal and its location and it shall include the name, address and telephone number of a representative of the applicant who may be contacted for additional information regarding the proposal. Notice to the Department of Planning and Community Development shall include a list of the persons and addresses notified of the neighborhood meeting.

2. A pre-application conference as described in Chapter 21.01.050 A. is encouraged.
3. The determination of completeness process in Chapter 21.010050 B. shall apply.
4. The notice of application procedures contained in Chapter 21.01.050 C. shall apply. The City shall mail the notice to the applicant, agencies with jurisdiction and all property owners within three hundred (300) feet of any portion of the proposed development or other land owned by the applicant that is adjacent to the proposed development. The date of the notice of application shall be the date the notice is mailed. A notice of application shall also be posted on the site as required by Chapter 20.10.015 of this ordinance.
5. After receipt of a complete application and prior to the public hearing, the Department of Planning and Community Development shall schedule a Technical Review Committee (TRC) meeting.

The standing members of the TRC shall consist of the Planning and Community Development Director, Public Works Director and Fire Chief or their authorized representative. However, any City department or department/division supervisor, may attend to express opinions related to the project proposals.

The TRC shall review the comments expressed by the public, and the proposal as it relates to the concerns of their respective department and City policies and ordinances, and potential adverse impact to the environment, and prepare a report of conditions of acceptance. The City shall prepare a proposed co-housing development contract incorporating these conditions.

6. A public hearing shall be held before the Planning and Development Commission. Notice of such hearing shall be given by publication of at least one (1) notice not less than ten (10) days prior to the hearing in a newspaper in general circulation in the City. Individual notice of the hearing shall be mailed to property owners as specified in 20.10.048 B. 4 above. This notice may be combined with the notice of application. If the SEPA threshold determination requires public notice under Chapter 43.21C RCW, the City shall issue its threshold determination at least fifteen days prior to the Commission hearing unless alternative threshold procedures are allowed under WAC 197-11.
7. The Commission shall hold a public hearing on each co-housing application and shall review such application to assure conformance with the policies contained in the Comprehensive Plan, Neighborhood Plan and the criteria in Chapter 20.10.048 D. The Commission shall include in their review consideration of the staff recommendations and proposed co-housing development contract. The Commission shall make a recommendation to the City Council as to their findings. Such recommendation shall be advisory only.
8. The City Council shall schedule a public meeting at which they will consider the recommendation of the Commission. After consideration at a public meeting, the Council may adopt, change or reject the recommendation of the Commission regarding the proposed co-housing project and associated co-housing development contract based on the record established at the public hearing. If the Council adopts the recommendation of the Commission, no further action is required of the Council or Commission relative to the application. However, if the Council deems it necessary to change or reject the Commission's recommendation, the City Council shall adopt its own recommendations and approve or disapprove the co-housing development contract.
9. The procedures regarding a notice of decision and contained in Chapter 21.01.050 C. shall apply. The notice of decision shall also be published in a newspaper in general circulation in the City. The date of the decision shall be the date of the City Council decision.
10. If the application is approved, the contract shall be routed for signature and recorded.

- C. Submittal Requirements. The Director shall prescribe the content of the forms to be used for co-housing applications. At a minimum, the application shall include the following information:
1. Copies of site plans at full size and an 8.5" x 11" reduction showing:
 - a. Conformance with applicable standards
 - b. Proposed street access points and vehicular driveways
 - c. Proposed pedestrian walkways and type of surfacing
 - d. Proposed building locations
 - e. Proposed parking areas, surfacing and capacity
 - f. Proposed location, size and general design of: any proposed private yard areas, common areas and open space areas
 - g. A general landscaping plan showing the proposed location and type of material for screening, buffering, ground cover, tree planting and existing vegetation to be maintained
 - h. Proposed utility extensions
 - i. General storm water plan for method and location of treatment and/or detention facilities
 - j. Topography and general grading plan
 2. Preliminary building plans including:
 - a. General floor plans showing the number of units, the number of bedrooms per unit and the general functions in the common buildings
 - b. Typical building side view elevations showing height; type of building style; anticipated deck, window and door locations and general types of exterior materials that may be used
 3. A current title report for the subject property
 4. A State Environmental Policy Act Environmental Checklist, if applicable

5. A completed application form including the names and addresses of property owners within 300 feet of the site boundary
 6. Any proposal for phasing the construction of the project
 7. A preliminary list of any intended covenants and restrictions
 8. At the time of contract preparation, the applicant shall provide reduced copies of all plan submittals in a form suitable for recording with the Whatcom County Auditor.
 9. A filing fee as established by City Council resolution shall accompany the submittal. If the Council has not established a specific fee for co-housing applications, the applicant shall submit a fee in the same amount as that required for a planned residential development application.
- D. Special requirements. The City Council may approve an application for a co-housing project if it is found to comply with the following criteria:
1. The project applicant must be a legal entity created for the purpose of developing a co-housing project. The organization shall be transformed into a residential owners' association upon completion of the development and subsequent occupation of the dwelling units. Membership of the association shall be open only to owners of the dwelling units in the development. It is intended that co-housing projects be primarily owner occupied. Commercially owned rental projects are not permitted.
 2. The housing type may consist of any housing type (e.g. townhouses, flats, etc.) Individual lots are not required for each unit. The project density shall not exceed the allowed density, regardless of the type of housing, specified in the applicable Neighborhood Plan sub-area based on the number of proposed dwelling units. For example, in Residential Single zones that specify an over-all cluster density or in Residential Multi zones that require different amounts of land area per unit for single family versus multi-family development, the highest listed density for any housing type in the subject sub-area shall be considered the maximum potential density for co-housing. The maximum number of units which may be approved for a particular project may be less than the maximum potential if the site is within an environmentally sensitive area or the Lake Whatcom watershed or if it cannot meet the criteria for approval at the proposed density. Any proposal for

division of the property shall comply with City codes regarding subdivision.

3. Uses within the co-housing project shall be limited to those permitted uses listed in the Residential Single use district and those allowed under the provisions of this subsection. Any request for a conditional use on the co-housing site may be considered through the appropriate permit review procedures for conditional uses as prescribed by City code. The co-housing contract shall specify the uses approved for the specific site.
4. Height. The height limit of the underlying zone shall apply. Common buildings may be considered main buildings for the purposes of determining height limits.
5. Usable Space. At a minimum, usable space in an amount equal to that required for a proposal of the same number of units under Section 20.32.040 F of the Residential Multi chapter shall be required.
6. Yards. In Residential Single zones, the minimum setback from the perimeter of the site shall be 15 feet from all property lines except from arterial streets. The setback from arterial street sides shall be as provided in Chapter 20.30.050 F. (1) (a) and (b); provided the minimum required setback under this provision shall not be greater than 20 feet from the edge of the right-of-way.

In other zones, the setbacks from the perimeter property lines shall be the same as the required yard in the underlying zone, provided that the minimum required setback from streets under this provision shall not be more than 20 feet from the edge of the right-of-way.

7. Parking. Co-housing developments shall satisfy all parking regulations contained in Chapter 20.12, provided that the Council may increase or decrease the required number in order to mitigate expected impacts based on the proposed development design and/or occupancy or based on proposed use and occupancy restrictions. Open parking areas shall not be located within 15 feet of any property line unless the Council determines that a reduced setback will provide adequate buffering to protect adjacent properties and uses. In no case shall the setback be reduced below five (5) feet without variance approval.
8. Landscaping. Co-housing developments shall satisfy all landscaping requirements for similar uses contained in Section 20.12.030. Additionally, open parking areas shall be screened from

adjacent property lines by a minimum 3 to 4 foot high hedge or fence. Refuse and recycling bins shall be screened from view of adjacent properties by fencing and landscaping.

9. Open space. In Residential Single zones, at least 15 percent of the project site area shall be maintained as common open space. For the purposes of this provision, common open space shall be any undeveloped area designated, dedicated or otherwise reserved for public and/or private use and benefit as a natural area, greenway corridor or for recreational purposes as may be specified on the approved site plan.

In other zones, the open space requirements of the underlying use district shall apply.

10. Common buildings for uses consistent with the definition of co-housing may be permitted provided no common building shall exceed 5,000 square feet in floor area.
11. A sidewalk shall be constructed within all abutting City street rights of way. A local improvement district commitment or other method of obtaining a financial contribution to sidewalk construction may be accepted in place of construction if the City does not desire immediate construction.
12. Walkways shall be required to link building entrances, streets, recreational areas and parking.
13. Streets and utilities shall be designed to fulfill reasonably anticipated future need and be located to enable the continued orderly and reasonable use of adjacent property. Streets and utilities shall be extended across the full width of the property unless it is clearly demonstrated that the extension will not be needed for development of adjacent property.
14. Abutting streets shall be improved to a three-quarter standard, based on the specified street standard in BMC 13.04 or the street standard specified in the Neighborhood Plan.
15. Activities that are part of a home occupation may take place in a portion of a common building if specifically approved through a home occupation permit. All other rules and limitations regarding home occupations shall apply. Common buildings shall not be designed for commercial uses. Common buildings or groups of residences are not to be used to conduct business activities that exceed the magnitude of activity normally associated with home

occupations that are conducted within single family residences. Business activities shall not be the primary function of a common building and in no case shall more than 50% of the area of a common building be used for home occupations. The number of home occupations and the area used for each may be regulated in order to limit cumulative impacts. The co-housing contract may provide for additional home occupation limitations.

16. Design guidelines:

- a. The development, from the viewpoint of the public street, shall present a view that is residential in nature and similar to, or compatible with, other residential uses on that street. For example, views of residences and landscaping rather than views of blank walls or parking lots.
- b. Large parking lots shall be avoided. Parking areas shall be broken up with landscaping and placed along the sides and rear of the site whenever possible.
- c. Existing wetlands, streams, significant trees, topographical features and other natural features shall be saved, preserved and enhanced to the greatest extent possible consistent with reasonable and appropriate use of the subject site. Links between open spaces and pedestrian routes shall be facilitated whenever possible.
- d. The design shall provide outdoor play area for children in individual yard and/or common areas unless occupancy of the project is limited to adults.
- e. Group play areas, recreational areas or other areas intended for concentrated outdoor activity for group functions should be located away from project boundaries and adequately screened to minimize impacts on adjacent properties.
- f. In single family residential districts, the project should encourage a diversity of construction styles in order to maintain a character more in keeping with that of single family residential developments in contrast to that of multi-family developments.

17. The proposed development must also be found to:

- a. address any special conditions, prerequisite considerations or significant environmental elements identified in the Neighborhood Plan,

- b. be consistent with the goals and policies of the Comprehensive Plan,
- c. make adequate provisions for drainage, vehicular and pedestrian access (including emergency vehicle access), water, sewer, recreational areas and any other relevant features necessary to serve the public interest, and
- d. be designed to promote the residential quality of the neighborhood and to avoid detrimental impacts on adjacent properties

18. The standards herein are minimum standards and may be increased for a particular co-housing proposal where more stringent standards are necessary to protect neighboring properties, conform with existing development in the area, preserve natural resources or sensitive environments, provide for orderly development or conform with the Comprehensive Plan.

E. Any exceptions to the standards in Section 20. 10.048 (D) must be approved by the Commission and ratified by the Council only after written submittal by the applicant detailing the reasons why the standards cannot be met. Grounds for exceptions shall be limited to those justifications for variances contained within Chapter 20.18. Exceptions to allowed uses or density may not be granted.

PASSED by the Council this 17th day of August, 1998.

Bob Ryan
Council President

APPROVED by me this 27th day of August, 1998.

Mark Asundson
Mayor

Attest: Lynn Caperton
Finance Director

Approved as to Form:
[Signature]
Office of the City Attorney

Published: August 30, 1998

CITY OF BELLINGHAM WASHINGTON

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CC: LEGISLATIVE COORDINATOR
LEGAL SECRETARY
ITSD (TO SCAN)
OTHER: Linda Storck - JSS
MRSC