

Chapter 20.10 GENERAL PROVISIONS

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20.10.010 Location and marking of property corners for building permits.

- A. The location and marking of property corners by a land surveyor licensed by the state of Washington is required prior to the pouring of any foundation or footings for any new main building.
- B. The construction of any new main building is exempt from this requirement, provided the proposed foundation is five feet or more from any required setback line, or from any property line when no setback is required. [Ord. 9024, 1982].

20.10.025 Retail establishments – Maximum size.

- A. An individual retail establishment, including but not limited to membership warehouse clubs, discount stores, specialized product stores and department stores, shall not exceed 90,000 square feet of gross floor area. This restriction shall apply in all zones, including all general use types and use qualifiers. If this section conflicts with any other provisions of this title, this section shall prevail.

In the Cordata Neighborhood Zoning Map Area 15 and Meridian Neighborhood Zoning Map Areas 3, 5, 10, 11, 12, 14, 15, 16, 17, 18, 21, 22, 25, 26, 27, 31, 32, and 33, as shown in Exhibit A attached to the ordinance codified in this section, the size limit may be exceeded if the proposal meets all of the following conditions:

1. The facility is not a superstore. "Superstore" means a retail establishment that exceeds 90,000 square feet of gross floor area, sells a wide range of consumer products primarily for household or personal use and devotes more than 10 percent of the total sales floor area to the sale of nontaxable merchandise. "Nontaxable merchandise"

means products, commodities, or items the sale of which is not subject to Washington State sales tax. "Sales floor area" means only interior building space devoted to the sale of merchandise, and does not include restrooms, office space, storage space, automobile service areas, or open-air garden sales space. This definition excludes membership warehouse clubs where shoppers pay a membership fee in order to take advantage of discounted prices on a wide variety of items such as food, clothing, tires, and appliances and many items are sold in large quantities or bulk; and

2. The proposal satisfies the following environmental mitigation measures:
 - a. Leadership in Energy and Environmental Design (LEED™) certification at the silver level (or equivalent green building system). Projects shall apply for the LEED™ rating system the director determines is most suitable for the project type; and
 - b. The area of new or expanded impervious surfacing shall have a green factor score of at least 0.3.

B. For the purpose of subsection (A) of this section, gross floor area shall consist of the sum of the gross horizontal areas of all floors within the inside perimeter of the exterior walls of the structure or tenant space and roofed or partially walled outdoor areas reserved for the display, storage, or sale of merchandise, including accessory uses inside the primary retail establishment. Structured parking is excluded. The gross floor area of adjacent stores shall be aggregated in cases where the stores (1) are engaged in the selling of similar or related merchandise and operate under common ownership or management; (2) share check stands, a warehouse, or a distribution facility; or (3) otherwise operate as associated, integrated or cooperative business enterprises.

C. A building space occupied by an existing single retail establishment larger than 90,000 square feet may change occupancy to a different retail establishment of the same or smaller size except the space may not be converted to a superstore as defined in BMC 20.10.025(A)(1).

D. If this section conflicts with any other provisions of this title, this section shall prevail except it shall not affect the minor expansion rights of nonconforming stores under BMC 20.14.010(E). [Ord. 2013-02-007 § 1; Ord. 2010-12-074; Ord. 2010-04-023; Ord. 2007-02-011].

20.10.030 Use of manufactured homes and recreational vehicles.

- A. A "designated manufactured home" may be used as a single-family dwelling unit, provided it meets all of the following:
 1. It is a "new manufactured home," which means any manufactured home required to be titled under RCW Title 46, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2); and
 2. It is set upon a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load bearing or decorative; and
 3. It complies with energy efficiency standards for manufactured homes as specified in BMC 17.10.020; and
 4. It complies with all zoning, design and land use regulations applicable to single-family dwelling units at the subject location.

- B. No manufactured home or designated manufactured home may be used as a residence unless it complies with the provisions of subsection (A) of this section or it is a designated manufactured home allowed by Chapter 20.38 BMC as part of a manufactured home park in a residential multi planned development.
- C. No recreational vehicle shall be used as a residence. "Recreational vehicles" as defined in BMC 20.08.020 shall not be occupied for any commercial use, except when permitted as a watchman's quarters at a construction site or other temporary structure pursuant to Section R107 of the International Residential Code. [Ord. 2005-06-048; Ord. 9641 § 1, 1987; Ord. 9253 § 3, 1983; Ord. 9024, 1982].

20.10.035 Accessory dwelling units.

Repealed by Ord. 2018-05-009 (/enactments/Ord2018-05-009?product=BMC). [Ord. 2004-09-065; Ord. 2002-10-069 § 41; Ord. 10643 § 1, 1995].

20.10.036 Accessory dwelling units.

A. Purpose and Authority.

1. It is the purpose of this legislation to implement policy provisions of the city's comprehensive plan promoting increased housing options and innovation that will help meet the needs of the many sectors of the community, including smaller households, students, millennials, baby boomers, people with disabilities, and low-income families; make more efficient use of public infrastructure and services; are within walking distance to shops, jobs, and amenities; encourage well-designed infill development; and improve the economic and social well-being of the community.
2. The director shall have the authority to approve accessory dwelling units (ADUs) which are consistent with single-family neighborhood character and the regulations and provisions herein. It is not the intent of these regulations to provide for ADUs on every residential property and they shall not be deemed to create a right or privilege to establish or maintain an ADU which is not strictly in compliance with these regulations.
3. Enforcement. The city retains the right (with reasonable notice) to inspect the ADU for compliance with this section.

B. Standards and Criteria.

1. Accessory dwelling units (ADUs) may be allowed in use qualifiers where listed as a permitted use if they comply with the requirements listed in this section, except on property regulated by Chapter 16.80 BMC, Lake Whatcom Reservoir Regulatory Provisions.
2. An ADU shall comply with all zoning code provisions for the primary residence, including height, setbacks, accessory buildings and open space, except as provided in this section. This provision shall also apply to ancillary structures attached to a D-ADU such as garages, carports, garden sheds and workshops.
3. Applicants may request minor modifications to the development and design standards for ADUs. A minor modification is a request by the applicant to meet or exceed a particular ADU standard through the use of a technique or alternative standard not otherwise listed under the applicable requirement. Minor modifications are not variances and are not required to meet all of the criteria typically associated with a variance application. The director may grant a minor modification if the following criteria are met:

- a. The site is physically constrained due to, but not limited to, unusual shape, topography, easements, existing development on site, or critical areas; or
- b. The granting of the modification will not result in a development that is less compatible with adjacent neighborhood land uses and character; and
- c. The granting of the modification will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and district in which the property is situated; and
- d. The granting of the modification is consistent with the purpose and intent of this section; and
- e. All reasonable mitigation measures for the modification have been implemented or assured.

4. *Ownership and Occupancy.*

- a. The ADU, or the land on which the ADU is located, shall not be subdivided or otherwise segregated in ownership from the primary dwelling unit or the land on which the primary dwelling unit is located.
- b. The total number of persons who may occupy the accessory dwelling unit shall not exceed four, regardless of relationship.
- c. The owner shall record a covenant with the Whatcom County auditor, approved by the director, which shall run with the land as long as the ADU is maintained on the property. The property owner shall submit proof that the covenant has been recorded with the Whatcom County auditor's office prior to issuance of the building permit. The covenant shall specify the requirements for owner occupancy, purchaser registration, and biannual verification as follows:
 - i. The owner of the subject property shall reside on the premises, whether in the primary or accessory dwelling; provided, that:
 - (A) In the event of illness, death or other unforeseeable event which prevents the owner's continued occupancy of the premises, the director may, upon a finding that discontinuance of the ADU would cause a hardship on the owner and/or tenants, grant a temporary suspension of this owner-occupancy requirement for a period of one year. The director may grant an extension of such suspension for one additional year, upon a finding of continued hardship.
 - (B) In the case of bringing an unpermitted ADU into compliance with this section, if the property on which the ADU is located complies with all of the requirements of this section except owner-occupancy, the property may continue without occupancy by the owner for the remainder of the lease(s) on the property, not to exceed one year. Thereafter, the property shall be occupied by the owner, or transferred to a different owner who will reside on the premises.
 - ii. Purchasers of homes with an ADU shall register with the planning and community development department within 30 days of purchase.
 - iii. An affidavit, prepared by the planning and community development department and signed by the property owner, must be submitted to the department on or before January 1st of every odd numbered year attesting to owner occupancy.

5. *Site Requirements.*

- a. Only one ADU shall be allowed per lot. The lot may not contain more than one primary dwelling unit. The ADU is exempt from density limitations due to its small size and low occupancy.
 - b. For a D-ADU, the lot shall have alley access, access to more than one public street, or the lot size shall be at least 5,000 square feet.
6. ADU Size.
- a. Attached and Detached ADUs.
 - i. An ADU shall not exceed 66 percent of the floor area of the primary dwelling (excluding any related garage area attached to the primary dwelling) or 800 square feet, whichever is less, and shall contain a minimum square footage as required by the building code.
 - ii. No more than two bedrooms may be located within an ADU.
 - b. *Attached ADUs.* The director may allow increased size for an A-ADU in order to efficiently use all, or a portion of, the floor area on one floor of an existing dwelling unit constructed as of January 1, 1995, provided the ADU does not exceed 800 square feet.
 - c. *Detached ADUs.* The floor area for D-ADUs shall be calculated using the "general" definition of floor area in BMC 20.08.020, and include ancillary space (garage, workshop, garden shed, etc.) within. However, an accessory building that includes a D-ADU and ancillary space may exceed 800 square feet when approved by the hearing examiner by conditional use permit pursuant to Chapter 20.16 BMC, provided the floor area of the D-ADU does not exceed that specified in subsection (B)(6)(a)(i) of this section.
7. Minimum Yards for D-ADUs.
- a. Front and side-flanking yards shall comply with the zoning code provisions for the primary residence except that when the vehicular entrance to an attached garage or carport faces a street, the entrance shall be set back a minimum of 25 feet from the front property line, and 10 feet from a side flanking property line.
 - b. A five-foot side and rear yard setback shall be provided, measured from the property line to the foundation of the structure, except as follows:
 - i. When abutting an alley, there is no required side or rear yard setback from the alley.
 - ii. A D-ADU may be located in a rear yard and in the rear 22 feet of an interior side yard, provided:
 - (A) If such an accessory building is to be located less than five feet from any common property line, a joint agreement with the adjoining property owner(s) must be executed and recorded with the Whatcom County auditor's office and thereafter filed with the city; or
 - (B) If site characteristics warrant such that, in the opinion of the director, impacts to abutting property would be negligible due to, but not limited to, one or more of the following:
 - (1) The existing use and development pattern on abutting property.
 - (2) Minimal disruption of solar access to outdoor recreation or garden space on abutting property compared to what may otherwise occur with the application of standard development regulations.

- (3) Site characteristics such as building a D-ADU downslope from abutting property.
 - (4) Conversion of a detached accessory building existing as of the date of adoption of the ordinance codified in this section to a D-ADU.
 - (5) Any minor modification from standard development regulations requested pursuant to this subsection (B)(7)(b)(ii) shall be processed as a request for minor modification pursuant to subsection (B)(3) of this section.
- c. A minimum six feet of separation is required between the primary residence and a D-ADU.
8. *Building Height for D-ADUs.* A D-ADU shall be no higher than 20 feet under BMC 20.08.020, height definition No. 1.
9. *Parking.* Parking required for an ADU is in addition to that required for the primary dwelling unit.
- a. One on-site parking stall is required for an ADU, except as follows:
 - i. No parking is required when adding a street curb cut for private on-site parking would eliminate public on-street parking.
 - ii. The director may reduce parking requirements based on the applicant's demonstration of site-specific factors that justify a lower standard.
- Any request for a parking waiver shall be processed as a request for minor modification pursuant to subsection (B)(3) of this section.
- b. Parking stalls shall be at least nine feet by 18 feet.
 - c. Parking shall not be located in required front or side street setbacks. Parking in the front portion of the lot shall be discouraged.
 - d. If the lot abuts an alley or private access easement, parking shall be accessed from said facility except when the director determines that such access is impractical or environmentally constrained. Any request to forgo alley access shall be processed as a request for minor modification pursuant to subsection (B)(3) of this section.
 - e. Parking accessed from a street or lane shall be limited to one driveway per frontage with a maximum width of 20 feet.
10. *Privacy.* Where practical, locate and design the ADU to minimize disruption of privacy and outdoor activities on adjacent properties. Strategies to accomplish this include, but are not limited to:
- a. Stagger windows and doors to not align with such features on abutting properties.
 - b. Avoid upper level windows, entries and decks that face common property lines to reduce overlook of a neighboring property.
 - c. Install landscaping as necessary to provide for the privacy and screening of abutting property.
11. *Design Standards.* ADU design standards are intended to ensure the single-family appearance and character of the property is maintained or improved when viewed from the surrounding neighborhood. Any minor modification granted from compatibility with the design of the primary residence should be compatible with the prevailing architectural character of the area.

- a. An ADU shall have similar roof pitch, siding, and windows as the primary dwelling.
- b. Design the size and proportions of a D-ADU to give the appearance that it is secondary to the primary dwelling unit on the site.
- c. ADU Primary Entry.
 - i. The ADU entry shall be clearly subordinate to that of the primary dwelling when both are visible from the street frontage. Strategies to accomplish this include, but are not limited to, architectural design, entry location, and landscaping.
 - ii. Include an identifying feature such as a stoop and/or an eave overhang that is integral to the overall building design.
 - iii. The main ADU entry shall be a swing door, not slider.
 - iv. The entrance shall have direct access to a street via a lighted pedestrian path, driveway or alley.

12. *Utilities.*

- a. *Water, sewer, storm.* A primary dwelling unit and an A-ADU may have a shared water service to a water system, a shared sewer service to a sewer system and a shared storm service to a stormwater management system. A primary dwelling unit and a D-ADU may also have shared service connections, however separate and independent services from each building may be required to meet the city's adopted plumbing code. In all cases, the water service shut-off must be accessible to occupants of both units.
- b. *Electrical.* A primary dwelling unit and an A-ADU shall have no more than one electrical service. A primary dwelling unit and a D-ADU are permitted to have one shared electrical service or two separate electrical services. A separate meter is permitted to serve an A-ADU or a D-ADU, subject to compliance with the city's adopted electrical code. A single main service panel may be allowed; provided, that occupants of both dwelling units have access to the overcurrent devices supplying their occupancy.
- c. *Gas.* A primary dwelling unit and ADU may share natural gas services. An accessible shut-off valve must be upstream of the gas meter, on the exterior of the structure(s).
- d. Any utility lines being installed or altered must have their connections inspected as part of the building permit process.

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

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

C. *Existing Illegal Units.*

1. Application may be made for any accessory dwelling unit existing prior to January 1, 1995, to become legally permitted, pursuant to the provisions of this section. Whether an ADU permit is approved or denied, the owner of any nonpermitted unit shall be subject to the penalties provided in this code.
2. An application to legalize an existing ADU shall include an application for an ADU permit and a building permit application, showing changes made to the main residence or detached accessory building to accommodate the ADU. Approval shall be consistent with the ADU regulations and process outlined in this section. The ADU shall be reviewed using the current editions of building codes in place at the time its owner brings the unit forward for permit.
3. Nothing in this section shall require that the city permit existing ADUs that are determined to be dangerous.

D. *Permitting Process.* An ADU is required to obtain approval following the procedures established in Chapter 21.10 BMC.

E. *Threshold Review.* This ADU section shall be reviewed by city council, whichever comes first:

1. By December 31, 2025; or
2. When the city issues 200 D-ADU permits citywide; or
3. When the city issues 25 D-ADU permits in any one neighborhood as defined in Chapter 20.00 BMC, Zoning Tables.

The unit count trigger shall only apply to new D-ADUs approved following adoption of the ordinance codified in this section. The unit count trigger shall not apply to D-ADUs in those areas that were annexed into the city after 1995 with a “mixed” use qualifier that allows multifamily residential. [Ord. 2018-05-009 § 5].

20.10.037 Short-term rentals.

20.10.040 Temporary uses.

- A. The director is authorized to approve the following temporary uses:
1. Christmas tree sales in any general use type except residential single for a time period not to exceed 45 days.
 2. Circuses and carnivals may be permitted in any general use type except residential single and residential multi with the concurrence of the director of public works.
 3. Temporary vegetable and farm crop vendors in commercial and/or industrial general use types not to exceed 60 days.
 4. Contractors’ office and equipment storage on the premises of a construction project holding a valid building permit not to exceed the period of construction.
 5. Temporary structures to house hobby and/or noncommercial construction projects such as pleasure boat construction, antique restoration, and similar uses. The temporary use may not be permitted for more than a one-year period and must not, in the opinion of the director, cause any hazardous conditions nor be detrimental to neighboring uses in regards to aesthetics, privacy, light, air, and/or general welfare.

6. Annual neighborhood activities conducted by nonprofit organizations for the purpose of raising funds for community improvements or other nonprofit causes. The use shall be limited to once a year, not longer than 72 hours in duration, and shall include such activities as home tours, community garage sales, art fairs, auctions, etc.
7. Special events as allowed under Chapter 13.13 BMC.
8. Temporary homeless shelters, per Chapter 20.15 BMC. [Ord. 2018-10-019 § 2; Ord. 2017-02-007 § 3; Ord. 9582 § 2, 1986; Ord. 9401 § 1, 1984; Ord. 9024, 1982].

20.10.045 Home occupations.

- A. *Authority.* The director is authorized to approve home occupation permits consistent with the regulations and provisions herein.
- B. *Regulations.*
 1. Home occupations must be conducted within the main residential building by the occupant. The occupation may include such uses as personal, business, or professional services, or offices and repair shops for household items; however, veterinarian offices and clinics, hospitals, mortuaries, major and/or minor automotive repairs, eating and/or drinking establishments, stables, or kennels are prohibited.
 2. There shall be no exterior modification of the building in order to accommodate the occupation, nor shall there be any outward manifestation of the occupation. No home occupation shall be located anywhere but in the main building. The primary use of the premises shall be residential and at no time shall the home occupation be the predominant use.
 3. No more than one assistant or employee, in addition to the resident(s), may engage in the occupation on the premises. One off-street parking space shall be provided for the use of the employee.
 4. A flat, unlighted sign flush against the building is allowed. Such sign shall not exceed two square feet in area. The sign shall state only the name/address/phone number of the occupant and the occupation.
 5. No retail sales of goods in connection with the home occupation shall occur on or about the subject premises.
- C. *Permit Procedure.*
 1. *Exempt.* If the home occupation is limited to those activities which involve bookkeeping and office for a business conducted elsewhere, has no outward manifestation of the business, and no customers or employees coming to the home, it shall be considered "exempt." An exempt home occupation shall be considered an accessory use and permitted outright with no land use permit required.
 2. A nonexempt home occupation is required to obtain approval following the procedures established in Chapter 21.10 BMC. The director shall have authority to place such restrictions and conditions on the permit as deemed necessary to protect the neighborhood from any detrimental effect which may arise from the proposed use. Once a home occupation permit has been issued, it shall not be transferable to another person or location, nor shall the specified conditions be changed in any manner except upon reapplication. If after issuance of the permit, the use violates any of the conditions of the permit, or if the director otherwise finds the use to have a detrimental effect on the surrounding neighborhood, the director shall have the

authority to place additional restrictions on the permit or to revoke the permit and order the use abated. [Ord. 2004-09-065; Ord. 2002-10-069 § 42; Ord. 10169 § 11, 1991; Ord. 9024, 1982].

20.10.047 Confidential shelters.

A. The director of planning and community development may grant a special accommodation approval to “confidential shelters” as defined in BMC 20.08.020. Applications shall be processed administratively by the department. No public notice is required. The decision of the director is not subject to administrative appeal. Confidential shelters are subject to the following requirements:

1. The applicant shall provide satisfactory evidence that the organization operating the shelter has a demonstrated capability to operate the program (such as by having a record of successful operation of a similar program, maintaining a board of directors with appropriate experience, and/or obtaining program recognition through grants, etc.).
2. The applicant shall submit a site and floor plan for approval and demonstrate to the satisfaction of the director that adequate provision has been made for parking, screening and mitigation of impacts and that the building complies or will comply with housing and building codes as determined by the building official. The site and facilities shall be of a size and nature to provide for adequate mitigation of impacts based on the number of residents and staff while maintaining a single-family residential appearance. The director may impose conditions to satisfy these requirements. Any required certificate of occupancy shall be obtained.
3. The director shall have the authority to revoke the grant of special accommodation if the conditions of approval are not satisfied or if unacceptable impacts cannot be adequately mitigated. [Ord. 1998-06-034 § 2].

20.10.048 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 the residential single, residential multi duplex or residential multi multiple use district shall be processed following the procedures in Chapter 21.10 BMC.

C. *Special Requirements.* The hearing examiner 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 subarea based on the number of proposed dwelling units. For example, in residential single zones that specify an overall cluster density, or in residential multi zones that require different amounts of land area per unit for single-family versus multifamily development, the highest listed density for any housing type in the subject subarea 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 of 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 BMC 20.32.040(F) 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 BMC 20.30.040(G)(1), provided the minimum required setback under this provision shall not be greater 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 BMC; provided, that the hearing examiner 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 hearing examiner 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 feet without variance approval.

8. *Landscaping.* Co-housing developments shall satisfy all landscaping requirements for similar uses contained in BMC 20.12.030. Additionally, open parking areas shall be screened from adjacent property lines by a minimum three-foot to four-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 Chapter 13.04 BMC 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 residence. Business activities shall not be the primary function of a common building and in no case shall more than 50 percent 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 multifamily 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.

D. Any exceptions to the standards in subsection (C) of this section must be approved by the hearing examiner 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 BMC. Exceptions to allowed uses or density may not be granted. [Ord. 2004-09-065; Ord. 2002-10-069 § 44; Ord. 1998-08-062 § 5].

20.10.050 Site area.

- A. No building or structure shall hereafter be erected or located upon a lot unless in conformity with the minimum site area regulations of the general use type in which it is located or as may be otherwise provided herein or as approved through the subdivision procedures pursuant to BMC Title 23.
- B. No lot or parcel of land now existing or hereafter established shall be so reduced or diminished that yards, open space or site area be made smaller than the minimum required by this title, nor shall any lot or parcel of land that is now smaller than the minimum required by this title be further reduced or diminished in any manner, except as may be provided by law. [Ord. 2018-12-036 § 23; Ord. 9024, 1982].

20.10.060 Open space.

Open space as required by this title shall be a continuing obligation. [Ord. 9024, 1982].

20.10.070 Height.

- A. Buildings and structures shall not exceed the height limitation as specified in the applicable general use type development handbook. The property owner may elect to follow either height definition when there is an option; provided, that the director determines that the choice will not be unduly detrimental to the existing or future development of the adjacent properties.
- B. Spires, towers, domes, steeples, flag poles, chimneys, smokestacks, and/or ventilators may be erected above the height limitation, provided no usable floor space above the height limit is added thereby. This exception shall not apply to wireless communication facilities. No overheight object shall be used for advertising of any kind. [Ord. 1998-07-057; Ord. 9024, 1982].

20.10.080 Yards.

A. No yard shall be reduced in size so as to make it smaller than the minimum dimension required, except as allowed in the regulatory options found in the residential single (RS) and residential multi (RM) development standards.

B. No portion of any building or structure shall project into any required yard within a residential single (RS) or residential multi (RM) general use type, except as shown in Table 20.10.080, Permitted Yard Encroachments. Similar residential architectural features, mechanical equipment, and landscape structures not listed in Table 20.10.080 may be approved by the planning and community development director. Permitted encroachments into any yard are required to meet adopted building codes, and meet minimum vision clearance triangle on a corner lot.

Table 20.10.080 – Permitted Yard Encroachments					
Encroachments	Front Yard Setback	Side Yard Setback on a Flanking Street	P = Permitted		N = Not permitted
			Side Yard Setback	Rear Yard Setback	Front Yard Setback Option (1)
Uncovered accessibility ramp	P	P	P	P	P
Accessory building RS per BMC <u>20.30.100</u> RM per BMC <u>20.32.110</u>	N	N	P	P	N
Landscape arbor or trellis	P	P	P	P	P
Awning/canopy for a window, porch or door	P 2' maximum	P 2' maximum	P 2' maximum	P 2' maximum	P 2' maximum
Cantilevered bay window	P 2' maximum	P 2' maximum	P 2' maximum <u>(5) (6) (7)</u>	P 2' maximum	N
Green house window (manufactured window unit)	P 2' maximum	P 2' maximum	P 2' maximum <u>(7) (8)</u>	P 2' maximum	N
Dormer(s)	P 2' 1/4' maximum <u>(9)</u>	P 2' 1/4' maximum <u>(9)</u>	P 2' maximum <u>(5) (6) (7)</u>	P 2' maximum	N
Chimney/fireplace	P 2' maximum	P 2' maximum	N	P 2' maximum	P 2' maximum
Fireplace with direct venting	P 2' maximum	P 2' maximum	P 2' maximum <u>(10)</u>	P 2' maximum	P 2' maximum
Covered porch <u>(2)</u> Single story main entry open on 3 sides	P 6' maximum	P 6' maximum	N	N	N
	P	P	P	P	P

Roof; cornice, eave or overhang less than 4' in depth <u>(4)</u>					
Uncovered deck less than 30" above grade <u>(3)</u>	P	P	P	P	P
Uncovered deck or balcony, exceeding 30" above grade <u>(3)</u>	P 6' maximum	P 6' maximum	P 2' maximum <u>(6) (7)</u>	P 5' maximum	N
Uncovered stairwell, stairway or steps not exceeding 4' above grade <u>(2)</u>	P	P	P	P	P
Uncovered stairways, stairwells exceeding 4' above grade	N	P 2' maximum	P 2' maximum	P 5' maximum	N
Fences and walls, per BMC <u>20.12.050</u>	P	P	P	P	P
Hot tub Swimming pool Sport court	N	N	N	P 4' maximum	N
Mechanical equipment, such as: air condition unit, heat pump unit	N	N	N	P 4' maximum	N

Notes:

- 1** Yard encroachments may be permitted per BMC 20.10.080(B).
- 2** Uncovered steps leading into a porch or deck which are not exceeding four feet above grade are not counted towards the six feet front yard encroachment.
- 3** Lower decks or balconies with decks or balconies above them are not considered roofed.
- 4** Shall not be closer than three feet to a property line.
- 5** Shall not exceed 12 feet in width and separated from like features by at least four feet.
- 6** Prohibited within the side yard for residential single development.
- 7** Prohibited within seven feet of a side property line for residential multi development.
- 8** A manufactured green house window unit within the side yard is allowed as follows:
 - i** Limited to the first floor;
 - ii** Maximum width four feet; and
 - iii** Maximum height four feet.
- 9** A dormer may encroach a maximum of two feet when located above a corresponding bay window, or four feet when located above a corresponding front porch.
- 10** A wall bump-out for a gas fireplace with direct venting is allowed as follows:
 - i** Limited to the first floor;
 - ii** Maximum width six feet; and
 - iii** Maximum height six feet measured from finished floor.

C. For corner lots, the front yard shall be that yard which abuts a designated arterial. If neither or both of the abutting streets are designated arterials, the builder/owner shall have the option of selecting the front yard. The remaining yard shall be the side yard on a flanking street.

D. Whenever the right-of-way width is below minimum standards as specified in ordinance No. [8027 \(/enactments/OldOrd8027?product=BMC\)](#), the centerline for setback purposes shall be the farthest edge of the existing right-of-way which was dedicated by the subject property. [Ord. 2011-07-036; Ord. 9024, 1982].

20.10.090 Special conditions.

A. *Special Districts.* The following terms identified as special conditions in the land use classification system refer to overlay zones or additional regulations which may be applicable to a land use area where the term appears:

- 1. "Shoreline."
- 2. "Flood."
- 3. "View."
- 4. "Clearing."

Where no ordinance covering one of the above terms has been passed or shoreline master plan has been approved by the city, these terms shall not be applicable. In areas where one of the following terms are stated in the land use classification system, compliance with the provisions of the respective regulation will be required pursuant to the terms of that program or ordinance:

Term	Regulation
"Shoreline"	Shoreline Management Master Program

B. *Special Concerns.* The remaining words identified as special conditions in the land use classification system are special concerns which are site-specific in nature. The designation of a special concern in an area will not result in any requirements being imposed on development proposals in that area pursuant to this title other than those which require discretionary permits. Rather, these special concerns identify problems which may form the basis of conditions to be attached to a development proposal pursuant to discretionary approval under this title (variance, conditional use, or approval pursuant to the planned or institutional development regulations), subdivision approval (long plat), or the State Environmental Policy Act (Chapter [43.21C RCW](#) as implemented by city Ordinance No. [8515 \(/enactments/OldOrd8515?product=BMC\)](#), as amended).

Any conditions attached to discretionary approval of a project pursuant to this section shall be based upon the special concern as explained by language (if any) contained in either the introductory paragraph to the area classification system or in the preceding text as well as the goals of the comprehensive plan and shall be attached only to satisfy the appropriate standards for issuance of such approval; provided, that any conditions to proposals which are based upon such special concerns shall be formulated so as to allow the reasonable use of property for a purpose to which it is suitably adopted. [Ord. 9024, 1982].

20.10.100 Prerequisite considerations.

- A. *Purpose.* Prerequisite considerations are enumerated in the neighborhood plan land use classification system of the comprehensive plan in order to prevent the overcrowding of land in relation to the existing provision of essential services, to lessen congestion of streets, to provide for orderly and coordinated development, to conserve and restore natural beauty and other natural resources and facilitate provision of adequate transportation, water, sewerage, and other public services.
- B. *Effect.*
1. Prerequisite considerations are items which shall be addressed by the responsible official in conjunction with any proposal not exempt from the State Environmental Policy Act (SEPA) or by the decision-making body in regard to those projects which require discretionary approval.
 2. Any conditions attached to discretionary approval of a project pursuant to this section shall be based upon the prerequisite consideration as explained by language (if any) contained in either the introductory paragraph to the area classification system or in the preceding text of the neighborhood plan, as well as the goals of the comprehensive plan.
 3. Conditions based upon prerequisite considerations shall be formulated to correspond to the degree of impact which the specific development proposal is anticipated to have upon the situation giving rise to the prerequisite consideration; provided, that conditions to proposals which are based upon such prerequisite considerations shall be formulated so as to allow the reasonable use of property for a purpose to which it is suitably adapted.
 4. In the event a mechanism exists which will ensure that a prerequisite consideration will be satisfied at an appropriate time, the responsible official or decision-making body may approve the development proposal conditioned upon such future performance. Where the responsible official or decision-making body decides that the prerequisite consideration is inapplicable to a development proposal and attaches no corresponding condition, the rationale for such decision shall be specifically set out in findings of fact.
- C. The city of Bellingham shall adopt a capital improvement plan which shall address specifically the prerequisite considerations delineated in the Bellingham plan and include a priority within which the developmental problems recognized by the prerequisite considerations should be resolved.
- D. *User Information.* If there are any prerequisite considerations listed in the applicable neighborhood plan land use classification system, consult the office of planning and development for guidance prior to project plan preparation. [Ord. 9024, 1982].

The Bellingham Municipal Code is current through Ordinance 2019-03-008, passed March 25, 2019.

Disclaimer: The City Clerk Representative has the official version of the Bellingham Municipal Code. Users should contact the City Clerk Representative for ordinances passed subsequent to the ordinance cited above.

City Website: www.cob.org (<https://www.cob.org/>)

City Telephone: (360) 778-8000 (tel:360-778-8000)

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