DRAFT ADU Code Amendments v.8

3.36.030 Assessment and payment of impact fees.

A. *Required.* The city shall collect impact fees, based on the rates in ECC 3.36.120 and 3.36.125, from any applicant seeking development approval from the city for any development activity within the city as provided herein, including the expansion of existing structures or uses or change of existing uses that creates additional demand for public facilities.

1. For the purposes of this chapter, development activity shall not include miscellaneous improvements that do not add any demand for public facilities, including, but not limited to, fences, walls, swimming pools accessory to a residential use, and signs.

2. For the purposes of this chapter, development activity shall not include replacement of a residential structure with a new residential structure of the same type at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior residential structure. Replacement of a residential structure with a new residential structure of the same type shall be interpreted to include any residential structure for which there is no increase in the number of residential units.

3. For the purposes of this chapter, development activity shall not include alterations, expansions, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional dwelling units are created and the use is not changed. ~~Note: accessory dwelling units (ADUs) are not considered to create additional dwelling units because ECDC 20.21.020 does not consider ADUs as increasing the overall density of a single-family residential neighborhood.~~

B. *Timing and Calculation of Fees.* Impact fees shall be assessed based upon the impact fee rates in effect at the time of issuance of the building permit, including but not limited to change of use permit or remodel permit.

1. For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact fee for the new use, less an amount equal to the applicable impact fee for the prior use.

Commented [RH1]: I added Comments for annotation, whether the code is being deleted, moved or added and why. Or, whether more info is needed

Commented [HR2]: Under departmental internal review and with the City Attorney

2. For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in ECC 3.36.120 and 3.36.125.

3. Where the impact fees imposed are determined by the square footage of the development, the building official will establish the gross floor area created by the proposed development.

4. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to ECC 3.36.050 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to ECC 3.36.050 setting forth the dollar amount of the credit awarded.

5. Applicants shall pay an administrative fee that covers the cost of staff time in administering the impact fee program. The amount of the administrative fee shall be established and updated from time to time by resolution of the city council.

C. *Payment.* Unless deferred pursuant to ECC 3.36.160, impact fees shall be paid at the time the building permit or business license is issued by the city. The department shall not issue the required building permit or business license or other approval unless and until the impact fees set forth in ECC 3.36.120 and 3.36.125 have been paid in the amount that they exceed exemptions or credits provided pursuant to ECC 3.36.040 or 3.36.050; provided, that building permits may be issued without impact fee payment when payment is deferred in accordance with ECC 3.36.160. [Ord. 4048 § 1, 2016; Ord. 4037 § 1 (Att. A), 2016; Ord. 3934 § 1 (Exh. A), 2013].

3.36.040 Exemptions.

A. Except as provided for below, the following shall be exempted from the payment of all impact fees under this chapter:

1. Alteration of an existing nonresidential structure that does not involve a change in use and does not expand the usable space or add any residential units;

2. Miscellaneous improvements that do not expand usable space or add any residential units, including, but not limited to, fences, walls, swimming pools, and signs;

3. Demolition or moving of a structure;

4. Expansion of an existing structure that results in the addition of 100 square feet or less of gross floor area;

5. Replacement of a structure with a new structure of the same size and use at the same site or lot when a building permit application for such replacement is submitted to the city within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet; or

6. Alterations, expansions, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional dwelling units are created and the use is not changed~~. (accessory dwelling units (ADUs) are not considered to create additional dwelling units because ECDC 20.21.020 does not consider ADUs as increasing the overall density of a single-family residential neighborhood, and because the city's traffic model does not assign additional trips to the network as a result of ADUs).~~

Commented [HR3]: Under departmental internal review and with the City Attorney

B. Low-income housing units shall be exempt from paying 80 percent of the street impact fees to the extent the units satisfy this subsection. Such exemption shall be conditioned upon the developer recording a covenant that prohibits using the low-income housing units for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing development, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. The covenant shall also require the owner to submit an annual report to the city along with supporting documentation that shows that the low-income units are continuing to be rented in compliance with the covenant. The covenant shall be an obligation that runs with the land upon which the housing is located. The covenant shall be in a form acceptable to the city attorney and shall be recorded upon the developer's payment of the remaining 20 percent of the street impact fee.

C. Except as provided for below, the following shall be exempted from the payment of park impact fees under this chapter:

1. Low-income housing provided by nonprofit organizations such as, but not limited to, Habitat for Humanity. Owners of low-income single-family dwelling units, condominiums and other low-income housing shall execute and record a lien against the property, in favor of the city, for a period of 10 years guaranteeing that the dwelling unit will continue to be

used for low-income housing or that impact fees from which the low-income housing is exempted, plus interest, shall be paid. The lien against the property shall be subordinate only to the lien for general taxes. In the event that the development is no longer used for low-income rental housing, the owner shall pay the city the impact fee from which the owner or any prior owner was exempt, plus interest at the statutory rate. Any claim for an exemption for low-income owner occupied housing must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

D. Early learning facilities shall be exempt from paying 80 percent of street and park impact fees; provided, that the early learning facility satisfies the conditions of this subsection. Such exemption shall be conditioned upon the developer recording a covenant that requires that at least 25 percent of the children and families using the early learning facility qualify for state subsidized child care, including early childhood education and assistance under Chapter 43.216 RCW, and that provides that if the property is converted to a use other than for an early learning facility, the property owner must pay the applicable impact fees in effect at the time of conversion, and that also provides that if at any point during a calendar year the early learning facility does not achieve the required percentage of children and families qualified for state subsidized child care using the early learning facility, the property owner must pay the remaining impact fee that would have been imposed on the development had there not been an exemption. The covenant shall also require the owner to submit an annual report to the city along with supporting documentation that shows that the early learning facility is in compliance with the covenant. The covenant shall be an obligation that runs with the land upon which the early learning facility is located. The covenant shall be in a form acceptable to the city attorney and shall be recorded upon the developer's payment of the remaining 20 percent of the impact fees.

E. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in ECC 3.36.070. [Ord. 4268 § 1, 2022; Ord. 4048 § 1, 2016; Ord. 4037 § 1 (Att. A), 2016; Ord. 3934 § 1 (Exh. A), 2013].

3.36.120 Park impact fee rates.

The park impact fee rates in this section are generated from the formula for calculating impact fees set forth in the rate study, which is incorporated herein by reference. Except as otherwise

provided for independent fee calculations in ECC 3.36.130, exemptions in ECC 3.36.040 and credits in ECC 3.36.050, all new developments in the city will be charged the park impact fee applicable to the type of development as follows:

A. Effective October 1, 2014:

1. Single-family house: $2,734.05 per dwelling unit.

2. Accessory dwelling units: $1,367.03 per dwelling unit.

3. ~~2~~. Multifamily residential housing: $2,340.16 per dwelling unit.

4. ~~3~~. Nonresidential development: $1.34 per square foot. [Ord. 4048 § 1, 2016; Ord. 4037 § 1 (Att. A), 2016; Ord. 3934 § 1 (Exh. A), 2013].

Commented [HR4]: Under departmental internal review and with the City Attorney. Per RCW 36.70A.681(1)(a), the city of county may not assess impact fees on the construction of accessory dwelling units that are greater than 50 percent of the impact fees that would be imposed on the principal unit

3.36.125 Street impact fee rates.

The street impact fee rates in this section are generated from the formula for calculating impact fees set forth in the rate study, which is incorporated herein by reference. Except as otherwise provided for herein, all new developments in the city will be charged the street impact fee applicable to the type of development as follows in the table below.

For properties zoned BD – Downtown Business, an ITE Land Use Code of 814 – Specialty Retail shall be applied.

ITE Land Use Code – Description	Fee Calculation	2016 (w/ $1,049.41 cost per trip)	2017 (w/ $2,543.01 cost per trip)	2018 (w/ $4,036.61 cost per trip)	2019 and beyond (w/ $5,530.21 cost per trip)
110 – Light Industrial	per square foot	$1.50	$3.64	$5.77	$7.91
140 – Manufacturing	per square foot	$1.12	$2.72	$4.32	$5.92
151 – Mini-warehouse	per square foot	$0.40	$0.97	$1.54	$2.10
210 – Single-family house	per dwelling unit	$1,196.33	$2,873.60	$4,561.37	$6,249.14

ITE Land Use Code – Description	Fee Calculation	2016 (w/ $1,049.41 cost per trip)	2017 (w/ $2,543.01 cost per trip)	2018 (w/ $4,036.61 cost per trip)	2019 and beyond (w/ $5,530.21 cost per trip)
215 – Accessory dwelling units	per dwelling unit				$3,124.57
220 – Apartment	per dwelling unit	$776.56	$1,881.83	$2,987.09	$4,092.36
230 – Condominium	per dwelling unit	$629.65	$1,525.81	$2,421.97	$3,318.13
240 – Mobile home	per dwelling unit	$671.62	$1,627.53	$2,583.43	$3,539.33
251 – Senior Housing	per dwelling unit	$157.41	$584.89	$928.42	$1,271.95
320 – Motel	per room	$629.65	$1,525.81	$2,421.97	$3,318.13
420 – Marina	per boat berth	$188.89	$457.74	$726.59	$995.44
444 – Movie theater	per screens	$13,166.00	$31,905.90	$50,645.37	$69,384.85
492 – Health/fitness club	per square foot	$2.78	$6.74	$10.98	$14.66
530 – High school	per square foot	$0.82	$1.98	$3.15	$4.31
560 – Church	per square foot	$0.69	$1.68	$2.67	$3.65
565 – Day care center	per square foot	$6.57	$15.77	$25.02	$34.29
620 – Nursing home	per bed	$199.39	$483.17	$766.96	$1,050.74
710 – General office	per square foot	$2.07	$5.01	$7.95	$10.89
720 – Medical office	per square foot	$3.81	$9.54	$15.14	$20.74

Commented [HR5]: Under departmental internal review and with the City Attorney. Per RCW 36.70A.681(1)(a), the city of county may not assess impact fees on the construction of accessory dwelling units that are greater than 50 percent of the impact fees that would be imposed on the principal unit

ITE Land Use Code – Description	Fee Calculation	2016 (w/ $1,049.41 cost per trip)	2017 (w/ $2,543.01 cost per trip)	2018 (w/ $4,036.61 cost per trip)	2019 and beyond (w/ $5,530.21 cost per trip)
820 – Shopping center	per square foot	$1.34	$3.26	$5.17	$7.08
826 – Specialty retail	per square foot	$0.93	$2.06	$3.27	$4.48
850 – Supermarket	per square foot	$4.80	$10.50	$16.84	$22.84
850 – Convenience market 15 – 16 hrs	per square foot	$5.80	$14.07	$22.38	$30.58
912 – Drive-in bank	per square foot	$7.00	$15.97	$25.41	$34.73
932 – Restaurant: sit-down	per square foot	$4.70	$10.04	$15.95	$21.84
933 – Fast food, no drive-up	per square foot	$9.19	$22.28	$35.36	$48.44
934 – Fast food with drive-up	per square foot	$11.23	$26.24	$41.66	$57.07
936 – Coffee/donut shop, no drive-up	per square foot	$5.73	$13.88	$22.04	$30.19
938 – Coffee/donut shop, drive-up, no indoor seating	per square foot	$10.55	$25.56	$40.37	$55.58
945 – Gas station with convenience	per vehicle fueling position	$3,347.62	$6,916.99	$10,979.58	$15,042.18

[Ord. 4048 § 1, 2016; Ord. 4037 § 1 (Att. A), 2016].

Chapter 16.20
RS – SINGLE-FAMILY RESIDENTIAL

Sections:

16.20.000 Purposes.

The RS zone has the following specific purposes in addition to the general purposes for residential zones of ECDC 16.00.010 and 16.10.000:

A. To reserve and regulate areas primarily for family living in single-family dwellings;

B. To provide for additional nonresidential uses which complement and are compatible with single-family dwelling use. [Ord. 3547 § 1, 2005].

16.20.010 Uses.

A. *Permitted Primary Uses.*

1. Single-family dwelling units;

2. Churches, subject to the requirements of ECDC 17.100.020;

3. Primary schools subject to the requirements of ECDC 17.100.050(G) through (R);

4. Local public facilities that are planned, designated, and sited in the capital improvement plan, subject to the requirements of ECDC 17.100.050;

5. Neighborhood parks, natural open spaces, and community parks with an adopted master plan subject to the requirements of ECDC 17.100.070.

B. *Permitted Secondary Uses.*

1. Foster homes;

2. Accessory dwelling units, subject to the requirements of 16.20.050 ECDC;

3. ~~2.~~ Home occupation, subject to the requirements of Chapter 20.20 ECDC;

~~3.~~4. The renting of rooms without separate kitchens to one or more persons;

5. ~~4.~~ The following accessory buildings:

a. Fallout shelters,

b. Private greenhouses covering no more than five percent of the site,

c. Private stables,

d. Private parking for no more than five cars,

e. Private swimming pools and other private recreational facilities;

6. ~~5.~~ Private residential docks or piers;

7. ~~6.~~ Family day-care in a residential home;

8. ~~7.~~ Commuter parking lots that contain less than 10 designated parking spaces in conjunction with a church, school, or local public facility allowed or conditionally permitted in this zone. Any additionally designated parking spaces that increase the total number of spaces in a commuter parking lot to 10 or more shall subject the entire commuter parking lot to a conditional use permit as specified in subsection (D)(5) of this section, including commuter parking lots that are located upon more than one lot as specified in ECDC 21.15.075;

9. ~~8.~~ Bed and breakfasts, as in ECDC 20.23.020(A)(1).

Commented [MC6]: ADUs will be a permitted secondary use. ADUs currently require a conditional use permit in addition to any building permit requirements. Reduces permitting time and cost.

C. *Primary Uses Requiring a Conditional Use Permit.*

1. High schools, subject to the requirements of ECDC 17.100.050(G) through (R);

2. Local public facilities that are not planned, designated, and sited in the capital improvement plan, subject to ECDC 17.100.050;

3. Regional parks and community parks without a master plan subject to the requirements of ECDC 17.100.070.

D. *Secondary Uses Requiring a Conditional Use Permit.*

1. Preschools;

2. Guest house;

3. Amateur radio transmitting antennas;

~~4. Accessory dwelling units;~~

~~4.~~ Commuter parking lots with 10 or more designated parking spaces in conjunction with a church, school, or local public facility allowed or conditionally permitted in this zone; and

6. ~~5.~~ Bed and breakfasts, as in ECDC 20.23.020(A)(2). [Ord. 3988 § 7, 2015; Ord. 3900 § 4, 2012; Ord. 3702 § 1, 2008; Ord. 3547 § 1, 2005].

16.20.020 Subdistricts.

There are established seven subdistricts of the RS zone in order to provide site development standards for areas which differ in topography, location, existing development and other factors. These subdistricts shall be known as the RS-6 zone, the RS-8 zone, the RS-10 zone, the RS-12 zone, the RSW-12 zone, the RS-20 zone, and the RS-MP zone. [Ord. 3547 § 1, 2005].

16.20.030 Table of site development standards.

Sub District	Minimum Lot Area (Sq. Ft.)	Maximum Density[1]	Minimum Lot Width	Minimum Street Setback	Minimum Side Setback	Minimum Rear Setback	Maximum Height	Maximum Coverage (%)	Minimum Parking Spaces[2]
RS-20	20,000	2.2	100'	25'	35'[3] & 10'	25'	25'	35%	2
RS-12	12,000	3.7	80'	25'	10'	25'	25'	35%	2
RSW-12[4]	12,000	3.7	—	15'	10'	35'	25'	35%	2
RS-10	10,000	4.4	75'	25'	10'	20'	25'	35%	2
RS-8	8,000	5.5	70'	25'	7-1/2'	15'	25'	35%	2
RS-6	6,000	7.3	60'	20'	5'	15'	25'	35%	2
RS-MP[5]	12,000[5]	3.7[5]	80'[5]	25'[5]	10'[5]	25'[5]	25'	35%	2

1 Density means "dwelling units per acre" determined by dividing the total lot area by the density allowed by the underlying zoning; the number of lots or units permitted shall be rounded down to the nearest whole number.

2 See Chapter 17.50 ECDC for specific parking requirements.

3 Thirty-five feet total of both sides, 10 feet minimum on either side.

4 Lots must have frontage on the ordinary high water line and a public street or access easement approved by the hearing examiner.

5 "MP" signifies "master plan." The standards in this section show the standards applicable to development without an approved master plan. Properties in this zone may be developed at a higher urban density lot pattern equivalent to RS-8 but this shall only be permitted in accordance with a duly adopted master plan adopted under the provisions of ECDC 16.20.045.

[Ord. 3547 § 1, 2005].

16.20.040 Site development exceptions.

A. *Average Front Setback.* If a block has residential buildings on more than one-half of the lots on the same side of the block, the owner of a lot on that block may use the average of all the setbacks of the existing residential buildings on the same side of the street as the minimum required front setback for the lot. Detached structures such as garages; carports; and uncovered porches, decks, steps and patios less than 30 inches in height, and other uncovered structures less than 30 inches in height shall not be included in the "average front setback" determination.

An applicant for such a determination shall provide a drawing which locates the street property line for the entire block, as well as the existing street setbacks of all buildings required to be used for the purpose of calculating the "average front setback." The drawing shall be prepared and stamped by a land surveyor registered in the state of Washington.

B. *Eaves and Chimneys.* Eaves and chimneys may project into a required setback not more than 30 inches.

C. *Porches and Decks.* Uncovered and unenclosed porches, steps, patios, and decks may project into a required setback not more than one-third of the required setback, or four feet, whichever is less; provided, that they are no more than 30 inches above ground level at any point.

D. Reserved.

E. *Corner Lots.* Corner lots have no rear setback; all setbacks other than the street setbacks shall be side setbacks.

F. *Docks, Piers, Floats.*

1. *Height.* The height of a residential dock or pier shall not exceed five feet above the ordinary high water mark. The height of attendant pilings shall not exceed five feet above the ordinary high water mark or that height necessary to provide for temporary emergency protection of floating docks.

2. *Length.* The length of any residential dock or pier shall not exceed the lesser of 35 feet or the average length of existing docks or piers within 300 feet of the subject dock or pier.

3. *Width.* The width of any residential dock or pier shall not exceed 25 percent of the lot width when measured parallel to the shoreline.

4. *Setbacks.* All residential docks or piers shall observe a minimum 10-foot side yard setback from a property line or a storm drainage outfall. Joint use docks or piers may be located on the side property line; provided, that the abutting waterfront property owners shall file a joint use maintenance agreement with the Snohomish County auditor in conjunction with, and as a condition of, the issuance of a building permit. Joint use docks or piers shall observe all other regulations of this subsection.

5. *Number.* No lot shall have more than one dock or pier or portion thereof located on the lot.

6. *Size.* No residential dock or pier shall exceed 400 square feet.

7. *Floats.* Offshore recreational floats are prohibited.

8. *Covered Buildings.* No covered building shall be allowed on any residential dock or pier.

[Ord. 3845 § 5, 2011; Ord. 3547 § 1, 2005].

16.20.045 Site development standards – Single-family master plan.

A. *General.* The "single-family – master plan" zone is intended to apply to the area lying along the south side of SR-104 north of 228th Street SW, where there are development constraints related to access and traffic on SR-104. Development in this zone may be approved at RS-12 standards without an approved master plan. An approved master plan is required before any development can occur at RS-8 densities.

B. *Criteria for Approving a Master Plan.* Properties seeking to develop at RS-6 or RS-8 densities shall be developed according to a master plan (such as through a PRD) that clearly demonstrates the following:

1. That access and lot configurations shall not result in additional curb cuts or unmitigated traffic impacts on SR-104; at a minimum, a traffic study prepared by a traffic engineer approved by the city shall clearly demonstrate this requirement.

2. That the configuration and arrangement of lots within the master plan area provide for setbacks on the perimeter of the proposed development that are compatible with the zoning standards applied to adjoining developed properties. For example, a master plan adjoining developed lots in an RS-MP zone that were developed under RS-12 standards

shall have RS-12 setbacks along common property lines, although the lot sizes, widths, and other bulk standards may conform to the higher density lot configuration approved through the master plan. [Ord. 3547 § 1, 2005].

16.20.050 Site development standards – Accessory dwelling units

Commented [MC7]: Moving and updating ADU language currently in ECDC 20.21. ADUs are only allowed in single family (RS) zones so it is reasonable to include the ADU-related standards in the RS zoning chapter. At the same time, the standards are being updated to be consistent with HB 1337 and best practices.

A. *General.* Accessory dwelling units must meet all of the standards of Chapter 16.20 ECDC except as specifically provided in this section.

B. *Number of Units*. A principal dwelling unit may have two accessory dwelling units in the following configurations: one attached and one detached accessory dwelling units, two attached accessory dwelling units, or two detached accessory dwelling units.

C. *Table of ADU development standards.*

Sub District	Maximum ADU Gross Floor Area (Sq. Ft.)	Minimum DADU Rear Setback[1,2]	Maximum DADU Height	Minimum Parking Spaces
RS-20	1,200	25'	24'	0
RS-12	1,200	25'	24'	0
RS-10	1,200	20'	24'	0
RS-8	1,000	10'[3]	24'	0
RS-6	1,000	10'[3]	24'	0

Commented [RH8]: HB 1337 will require gross floor area up to 1,000sf. Gross floor area is defined by RCW 36.70A.696 as "the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure."

1 No rear setbacks are required for detached accessory dwelling units from the rear lot line if that lot line abuts a public alley, regardless of detached accessory dwelling unit size.

Commented [MC9]: Consistent with HB 1337

2 Standard street and side setbacks per ECDC 16.20.030 apply.

3 The normally required rear setback may be reduced to a minimum of five feet for a detached accessory dwelling units 15' in height or less.

D. *Types of Building*. A manufactured or modular dwelling unit may be used as an accessory dwelling unit. Detached accessory dwelling units are allowed to be created in existing legally permitted buildings, including detached garages. Legal nonconforming buildings converted for use as an accessory dwelling unit must meet the requirements of 17.40.020(D).

E. *Driveways*. Access to the principal unit and any residential units shall comply with city codes and policies as established by ECDC Title 18.

F. *Utilities and Services*. The Public Works Department considers Accessory Dwelling Units dependent upon the principal unit and within the capacity of existing infrastructure of the primary unit.

1. *Utilities.* All new or extended utilities must be undergrounded in accordance with ECDC 18.05.010.

2. *Utility Access*. Occupants of Accessory Dwelling Units and the primary unit must have unrestricted access to utility controls for systems (Including water, electricity, and gas) in each respective unit or in a common area.

3. *Water Meter*. Only one water service and meter is allowed per parcel to serve the principal unit and each accessory dwelling unit. Private submetering on the property is allowed, but the City is not involved with installing or reading the submeter.

4. *Sewer*. Only one sewer lateral is allowed per parcel to serve the principal unit and each accessory dwelling unit. Separate connections to the main trunk line will not be permitted.

5. *Septic System.*

5. *Mailboxes*. Additional mailboxes may be added for each permitted unit as approved by the Post Office.

Commented [HR10]: Language TBD by Public Works Department. Per State requirements, cities may prohibit ADUs on properties not served by sewers.

Commented [RH11]: Under review with City of Edmonds Public Works Department, Utility Billing, and Olympic View Water and Sewer District

G. *Health and Safety*. Accessory dwelling units must comply with all the applicable requirements of the current building codes adopted by ECDC Title 19 and must comply in all respects with the provisions of the Edmonds Community Development Code. Accessory dwelling units will be required to have separate ingress/egress from the principal dwelling unit.

H. *Previously approved accessory dwelling units*. ADUs that were previously approved by the City of Edmonds may continue and are not subject to the standards of this subsection. If expansion

or modification to an approved unit is proposed, the ADU must come into full compliance with the requirements of this section.

16.20.060 ~~16.20.050~~ Site development standards – Accessory buildings.

A. *General.* Accessory buildings and structures shall meet all of the standards of ECDC 16.20.030 except as specifically provided in this section.

B. *Height.* Height shall be limited to 15 feet, except for amateur radio transmitting antennas and their supporting structures. Garages or other accessory buildings attached by a breezeway, hallway, or other similar connection to the main building which results in a separation exceeding 10 feet in length may not exceed the 15-foot height limit. The separation shall be determined by the minimum distance between the outside walls of the main building and accessory building, exclusive of the connecting structure.

C. *Rear Setbacks.* The normally required rear setback may be reduced to a minimum of five feet for accessory buildings covering less than 600 square feet of the site.

D. *Satellite Television Antenna.* A satellite television antenna which measures greater than one meter or 1.1 yards in diameter shall comply with the following regulations:

1. *General.* Satellite television antennas must be installed and maintained in compliance with the Uniform Building and Electrical Codes as the same exist or are hereafter amended. A building permit shall be required in order to install any such device.

2. *Setbacks.* In all zones subject to the provisions contained herein, a satellite television antenna shall be located only in the rear yard of any lot. In the event that no usable satellite signal can be obtained in the rear lot location or in the event that no rear lot exists as in the case of a corner lot, satellite television antennas shall then be located in the side yard. In the event that a usable satellite signal cannot be obtained in either the rear or side yard, then a roof-mounted location may be approved by the staff; provided, however, that any roof-mounted satellite antenna shall be in a color calculated to blend in with existing roof materials and, in the case of a parabolic, spherical or dish antenna, shall not exceed nine feet in diameter unless otherwise provided for by this section. In no event shall any roof-

mounted satellite television antenna exceed the maximum height limitations established by this section.

3. *Aesthetic.* Satellite television antennas shall be finished in a nongarish, nonreflective color and surface which shall blend into their surroundings. In the case of a parabolic, spherical or dish antenna, said antenna shall be of a mesh construction. No commercial advertising of any kind shall be displayed on the satellite television antenna.

4. *Size and Height.* Maximum size for a ground-mounted parabolic, spherical or dish antenna shall be 12 feet in diameter. No ground-mounted antenna shall be greater than 15 feet in height unless otherwise approved for waiver as herein provided. The height of roof-mounted satellite television antennas shall not exceed the lesser of the height of the antenna when mounted on a standard base provided by the manufacturer or installer for ordinary operation of the antenna or the height limitation provided by the zoning code.

5. *Number.* Only one satellite television antenna shall be permitted on any residential lot or parcel of land. In no case shall a satellite television antenna be permitted to be placed on wheels or attached to a portable device for the purpose of relocating the entire antenna on the property in order to circumvent the intentions of this section.

E. *Amateur Radio Antennas.*

1. The following applications for the following approvals shall be processed as a Type II development project permit application (see Chapter 20.01 ECDC):

a. Requests to utilize an amateur radio antenna dish which measures greater than one meter or 1.1 yards in diameter;

b. Requests to utilize an antenna which:

i. Would be greater than 12 feet in height above the principal building on a site. The height of the antenna shall be determined by reference to the highest point of the roof of the principal building, exclusive of the chimney or other roof-mounted equipment. The request to locate a 12-foot antenna on a building is limited to buildings whose height conforms to the highest limit of the zone in which the building is located.

ii. Would exceed the height limit of the zone when mounted on the ground or on any accessory structure (see subsection (E)(2)(d) of this section).

2. The application shall comply with the following regulations:

a. *Definition.* "Amateur radio antenna" means an antenna, or any combination of a mast or tower plus an attached or mounted antenna, which transmits noncommercial communication signals and is utilized by an operator licensed by the Federal Communications Commission. Guy wires for amateur radio antennas are considered part of the structure for the purpose of meeting development standards.

b. *General.* Amateur radio antennas must be installed and maintained in compliance with the Uniform Building and Electrical Codes, as the same exist or are hereafter amended. A building permit shall be required to install an amateur radio antenna.

c. *Location.* Amateur radio antennas may be ground- or roof-mounted, however, these devices shall:

i. Be located and constructed in such a manner as to reasonably ensure that, in its fully extended position, it will not fall in or onto adjoining properties;

ii. Not be located within any required setback area; and

iii. Be retracted in inclement weather posing a hazard to the antenna.

d. *Height.* The height of a ground-mounted tower or roof-top antenna may not exceed the greater of the height limit applicable to the zone or 65 feet when extended by a telescoping or crank-up mechanism unless an applicant obtains a waiver (see subsection (F) of this section).

i. Only telescoping towers may exceed the height limits established by subsection (E)(1)(b) of this section. Such towers shall comply with the height limit within the applicable zone and may only exceed the height limit of the applicable zone and/or 65-foot height limit when extended and operating and if a waiver has been granted.

ii. An antenna located on a nonconforming building or structure which exceeds the height limit of the zone in which it is located shall be limited to height limit of the zone plus 12 feet.

e. *Aesthetic.* To the extent technically feasible and in compliance with safety regulations, specific paint colors may be required to allow the tower to blend better with its setting.

F. *Technological Impracticality – Request for Waiver.*

1. The owner, licensee or adjacent property owner may apply for a waiver if:

a. Strict application of the provisions of this zoning code would make it impossible for the owner of a satellite television antenna to receive a usable satellite signal;

b. Strict application of the provisions of this zoning code would make it impossible for the holder of any amateur radio license to enjoy the full benefits of an FCC license or FCC protected right; or

c. An adjacent property owner or holder of an FCC license or right believes that alternatives exist which are less burdensome to adjacent property owners.

2. The request for waiver shall be reviewed by the hearing examiner as a Type III-A decision and may be granted upon a finding that one of the following sets of criteria have been met:

a. *Technological Impracticality.*

i. Actual compliance with the existing provisions of the city's zoning ordinance would prevent the satellite television antenna from receiving a usable satellite signal or prevent an individual from exercising the rights granted to him or her by the Federal Communications Commission (FCC) by license, law or FCC regulation; or

ii. The alternatives proposed by the property owner or licensee constitute the minimum necessary to permit acquisition of a usable satellite signal by a satellite television antenna or to exercise the rights granted pursuant to a valid FCC license, law or FCC regulation.

b. *Less Burdensome Alternatives.* The hearing examiner is also authorized to consider the application of adjacent property owners for a waiver consistent with the provisions of subsection (F)(1)(c) of this section without the requirement of a finding that a usable satellite signal cannot be acquired when the applicant or adjacent property owner(s)

establish that the alternatives proposed by the applicant are less burdensome to the adjacent property owners than the requirements which would otherwise be imposed under this section. For example, adjacent property owners may request alternative or additional screening or the relocation of the antenna on the licensee's property. In the interactive process described in subsection (F)(3) of this section, the hearing examiner shall attempt to balance the impact of the tower on the views of adjacent properties, as well as the impacts of alternative screening and relocation in order to equitably distribute any negative impacts among the neighbors while imposing reasonable conditions on the antenna, its location and screening that do not impair the rights granted by the FCC to the licensee.

3. The process shall be an interactive one in which the hearing examiner works with the licensee to craft conditions which place the minimum possible burden on adjacent property owners while permitting the owner of the satellite antenna or holder of an amateur radio license to fully exercise the rights which he or she has been granted by federal law. For example, the number of antennas and size of the array shall be no greater than that necessary to enjoy full use of the FCC license. Conditions may include but are not limited to requirements for screening and landscaping, review of the color, reflectivity and mass of the proposed satellite television antenna or amateur radio facilities, and other reasonable restrictions. Any restriction shall be consistent with the intent of the city council that a waiver to the antenna owner be granted only when necessary to permit the satellite television antenna to acquire usable satellite signal or to allow the licensee to exercise the rights granted by Federal Communications Commission license after consideration of aesthetic harmony of the community. The process employed should involve the interaction of the licensee or owner and the neighborhood. Certain issues have been preempted by federal law and shall not be considered by the hearing examiner. Such issues include, but are not limited to, the impacts of electromagnetic radiation, the potential interference of the amateur radio facility with electronic devices in the neighborhood and any other matter preempted by federal law or regulation. Impact on view and on the values of neighboring properties may be considered in imposing reasonable conditions but shall not be a basis for denial of a permit to construct the antenna.

4. The application fee and notification for consideration of the waiver by an owner of a satellite television antenna shall be the same as that provided for processing a variance. No fee shall be charged to the holder of a valid FCC amateur radio license.

5. In the event that an applicant for waiver is also obligated to undergo architectural design review, the architectural design board shall defer any issues relating to the antenna and/or other amateur radio equipment to the hearing examiner. The hearing examiner may, at his or her discretion, request the architectural design board review and comment regarding required screening and landscaping and its integration into sight and landscaping plans. No additional fee shall be required of the applicant upon such referral.

G. The provisions of subsections (D), (E) and (F) of this section shall be interpreted in accordance with the regulations of the Federal Communications Commission including but not limited to PRB-1. In the event of ambiguity or conflict with any of the apparent provisions of this section, the provisions of federal regulations shall control. [Ord. 3736 §§ 8, 9, 2009; Ord. 3728 § 3, 2009; Ord. 3547 § 1, 2005].

17.40.020 Nonconforming building and/or structure.

Commented [HR12]: Per HB 1337, a city or a county must allow detached accessory dwelling units to be converted from existing structures, including but not limited to detached garages, even if they violate current code requirements for setbacks or lot coverage

A. *Definition.* A nonconforming building is one which once met bulk zoning standards and the site development standards applicable to its construction, but which no longer conforms to such standards due to the enactment or amendment of the zoning ordinance of the city of Edmonds or the application of such ordinance in the case of a structure annexed to the city. Subject to the other provisions of this section, an accessory building that is not an accessory dwelling unit shall be presumptively nonconforming if photographic or other substantial evidence conclusively demonstrates that the accessory building existed on or before January 1, 1981. In the case of a property that was annexed after January 1, 1981, then the date shall be that of the effective date of the annexation of the city of Edmonds. Such presumption may be overcome only by clear and convincing evidence.

B. *Continuation.* A nonconforming building or structure may be maintained and continued, unless required to be abated elsewhere in this chapter or section, but it may not be changed or altered in any manner which increases the degree of nonconformity of the building except as expressly provided in subsections (C) through ~~(J) (I)~~ of this section.

C. *Historic Buildings and Structures.* Nothing in this section shall prevent the full restoration by reconstruction of a building or structure which is either listed on the National Register of Historic Places, the Washington State Register of Historic Places, the Washington State Cultural Resource Inventory, or the Edmonds Register of Historic Places, or is listed in a council-approved historical survey meeting the standards of the State Department of Archaeology and Historic Preservation. “Restoration” means reconstruction of the historic building or structure

with as nearly the same visual design appearance and materials as is consistent with full compliance with the State Building Code and consistent with the requirements of Chapter 20.45 ECDC, Edmonds Register of Historic Places. The reconstruction of all such historic buildings and structures shall comply with the life safety provisions of the State Building Code.

D. *Maintenance and Alterations.*

1. Ordinary maintenance and repair of a nonconforming building or structure shall be permitted.

2. *Solar Energy Installations on Buildings That Exceed Existing Height Limits.* A rooftop solar energy installation mounted on a nonconforming building that exceeds the existing height limit may be approved as a Type II staff decision if:

a. The installation exceeds the existing roof height by not more than 36 inches.

b. The installation is designed and located in such a way as to provide reasonable solar access while limiting visual impacts on surrounding properties.

3. Alterations which otherwise conform to the provisions of the zoning ordinance, its site development and bulk standards, and which do not expand any nonconforming aspect of the building, shall be permitted.

4. In an effort to provide modular relief, minor architectural improvements in commercial and multifamily zones may encroach into the nonconforming setback adjacent to an access easement or public right-of-way not more than 30 inches. Minor architectural improvements may also be permitted in nonconforming side or rear yard setbacks only if they intrude not more than 30 inches nor one-half of the distance to the property line, whichever is less. “Minor architectural improvements” are defined as and limited to bay windows, eaves, chimneys and architectural detail such as cornices, medallions and decorative trim. Such improvements shall be required to obtain architectural design review. Nothing herein shall be interpreted to exempt such improvements in compliance with the State Building and Fire Codes.

5. Alterations required by law or the order of a public agency in order to meet health and safety regulations shall be permitted.

E. *Relocation.* Should a nonconforming building or structure be moved horizontally for any reason for any distance, it shall thereafter come into conformance with the setback and lot

coverage requirements for the zone in which it is located. Provided, however, that a building or structure may be moved on the same site without full compliance if the movement reduces the degree of nonconformity of the building or structure. Movement alone of a nonconforming building or structure to lessen an aspect of its nonconformity shall not require the owner thereof to bring the building or structure into compliance with other bulk or site development standards of the city applicable to the building or structure.

F. *Restoration.*

1. If a nonconforming building or structure is destroyed or is damaged in an amount equal to 75 percent or more of its replacement cost at the time of destruction, said building shall not be reconstructed except in full conformance with the provisions of the Edmonds Community Development Code. Determination of replacement costs and the level of destruction shall be made by the building official and shall be appealable as a Type II staff decision under the provisions of Chapter 20.06 ECDC. Damage of less than 75 percent of replacement costs may be repaired, and the building returned to its former size, shape and lot location as existed before the damage occurred, if, but only if, such repair is initiated by the filing of an application for a building permit which vests as provided in ECDC 19.00.025(G) et seq. within 18 months of the date such damage occurred. The director may grant a one-time extension of up to 180 days if a written extension request has been received from the applicant prior to the expiration of the initial 18 months.

2. *Residential Buildings.* Existing nonconforming buildings in use solely for residential purposes, or structures attendant to such residential use, may be reconstructed without regard to the limitations of subsections (E) and (F) of this section, if, but only if, the following conditions are met:

a. If a nonconforming multifamily residential building or a mixed use building containing multiple residential units is damaged in excess of 75 percent of its replacement cost at the time of destruction, the building may be restored to the same density, height, setbacks or coverage as existing before the destruction or damage occurred if, but only if, an application for a building permit which vests as provided in ECDC 19.00.025(G) et seq. is filed within 18 months of the date the damage occurred. The director may grant a one-time extension of up to 180 days if a written extension request has been received from the applicant prior to the expiration of the initial 18 months.

b. All provisions of the State Building and Electrical Codes can be complied with entirely on the site. No nonconforming residential building may be remodeled or reconstructed if, by so doing, the full use under state law or city ordinance of a conforming neighboring lot or building would be limited by such remodel or reconstruction.

c. These provisions shall apply only to the primary residential use on site and shall not apply to nonconforming accessory buildings or structures.

d. A nonconforming residential single-family building may be rebuilt within the defined building envelope if it is rebuilt with materials and design which are substantially similar to the original style and structure after complying with current codes. Substantial compliance shall be determined by the city as a Type II staff decision. The decision of the hearing examiner shall be final and appealable only as provided in ECDC 20.06.150.

3. The right of restoration shall not apply if:

a. The building or structure was damaged or destroyed due to the unlawful act of the owner or the owner's agent;

b. The building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or owner's agents; or

c. The building was demolished for the purpose of redevelopment.

G. *Accessory Dwelling Units.* A preexisting nonconforming detached accessory building may be converted into an accessory dwelling unit provided it meets the standards in ECDC 16.20.050(F) and (G). Minor exterior modifications required for conversion into conditioned space or other minor exterior modifications required by the International Residential Code adopted by ECDC Title 19 may be permitted. 'Minor exterior modifications' include, but are not limited to, egress windows, exhaust vents, and other minor modifications that are required for health and safety as determined by the Building Official.

~~G.~~ H. Subject to the other provisions of this section, an accessory building that is not an accessory dwelling unit shall be presumptively nonconforming if photographic or other substantial evidence conclusively demonstrates that the accessory building existed on or before January 1, 1981. In the case of a property that was annexed after January 1, 1981, then the date

shall be that of the effective date of the annexation to the city of Edmonds. Such presumption may be overcome only by clear and convincing evidence.

~~H.~~ I. *BD5 Zone.* The BD5 zone was created in part to encourage the adoption and reuse of existing residential structures for live/work and commercial use as set forth in ECDC 16.43.030(B)(5). In the BD5 zone, conforming and nonconforming buildings may be converted to commercial or other uses permitted by ECDC 16.43.020 without being required to come into compliance with the ground floor elevation requirements of ECDC 16.43.030(B).

~~I.~~ J. The antenna and related equipment of a nonconforming wireless communication facility may be completely replaced with a new antenna and related equipment; provided, that, upon replacement, the applicant shall use the best available methods and materials to enhance the appearance of the antenna and related equipment and/or screen it from view in a manner that improves the visual impact or the conspicuity of the nonconformity. [Ord. 4154 § 6 (Att. D), 2019; Ord. 4151 § 2 (Att. A), 2019; Ord. 3961 § 3, 2014; Ord. 3866 § 2, 2011; Ord. 3781 § 1, 2010; Ord. 3736 §§ 13, 14, 2009; Ord. 3696 § 1, 2008].

~~17.40.025 Vested nonconforming or illegal accessory dwelling units.~~

Commented [MC13]: Old code that is no longer valid as part of this update.

~~A. Illegal or nonconforming accessory dwelling units which registered with the city during the registration period which ended October 16, 2000, at 5:00 p.m. are hereby declared to be legal nonconforming detached and attached accessory dwelling units (ADU). Accessory dwelling unit (ADU) is defined in Chapter 20.21 ECDC.~~

~~B. Once registered, a formerly illegal or nonconforming ADU shall enjoy all the protections and privileges afforded to a nonconforming building under the provisions of ECDC 17.40.020.~~

~~C. Legal nonconforming units which received a permit certificate confirming such status and listing the physical dimensions and other characteristics of the structure may be continued in accordance with such permit certificate.~~

~~D. Failure to register a structure within the time period established by the provisions of this section shall be considered to be presumptive proof that such a unit is an illegal unit and subject to abatement. The owner of such structure may overcome such a presumption only by presentation of substantial and competent evidence which establishes the legal nonconforming nature of such building by clear and convincing evidence that the structure was permitted by Snohomish County or the city of Edmonds, was permitted by such agency and was in complete compliance with the applicable provisions of state law and county or city ordinance, at the~~

~~dates such construction was initiated and was completed. [Ord. 4154 § 7 (Att. D), 2019; Ord. 3696 § 1, 2008].~~

17.40.030 Nonconforming lots.

A. *Definition.* A nonconforming lot is one which met applicable zoning ordinance standards as to size, width, depth and other dimensional regulations at the date on which it was created but which, due to the passage of a zoning ordinance, the amendment thereof or the annexation of property to the city, no longer conforms to the current provisions of the zoning ordinance. A lot which was not legally created in accordance with the laws of the local governmental entity in which it was located at the date of the creation is an illegal lot and will not be recognized for development.

B. *Continuation.* A nonconforming lot may be developed for any use allowed by the zoning district in which it is located, even though such lot does not meet the size, width, depth and other dimensional requirements of the district, so long as all other applicable site use and development standards are met or a variance from such site use or development standards has been obtained. In order to be developed a nonconforming lot must meet minimum lot size standards established by the provisions of this code, subject to the provisions of subsection (D) of this section.

C. *Combination.* If, since the date on which it became nonconforming due to its failure to meet minimum lot size or width criteria, an undeveloped nonconforming lot has been in the same ownership as a contiguous lot or lots, the nonconforming lot is to be and shall be deemed to have been combined with such contiguous lot or lots to the extent necessary to create a conforming lot and thereafter may only be used in accordance with the provisions of the Edmonds Community Development Code, except as specifically provided in subsection (D) of this section.

D. *Exception for ~~Single-Family~~ Dwelling Units.* An applicant may build one or more ~~single-family residence consisting of no more than one~~ dwelling unit~~s~~ on a lot or parcel regardless of the size of the lot or parcel if, but only if, one of the following exceptions applies:

1. In an RS zone, such nonconforming lot may be sold or otherwise developed as any other nonconforming lot pursuant to the following conditions and standards:

a. The lot area of the nonconforming lot is not less than the minimum lot area specified in the table below for the zoning district in which the subject property is located; and

b. Community facilities, public utilities and roads required to serve the nonconforming lot are available concurrently with the proposed development; and

c. Existing housing stock will not be destroyed in order to create a new buildable lot.

Lot Area Table

	Zone	% Needed for Legal Lot	Lot Sized Needed for Legal Lot
(1)	RS-20	60%	12,000
(2)	RS-12	70%	8,400
(3)	RS-10	75%	7,500
(4)	RS-8	80%	6,400
(5)	RS-6	90%	5,400

2. An applicant applies for necessary permits to construct the unit within five years of the date the lot or parcel was annexed into the city and the lot or parcel was lawfully created under provisions of Snohomish County subdivision and zoning laws as well as the laws of the state of Washington; or

3. An applicant may remodel or rebuild one residence on a nonconforming lot without regard to the 75 percent destruction requirement of ECDC 17.40.020(F) if a fully completed

building permit application is submitted within one year of the destruction of the residence and all other development requirements of this code are complied with; or

4. The lot lines defining the lot or parcel were recorded in the Snohomish County recorder's office prior to December 31, 1972, and the lot or parcel has not at any time been simultaneously owned by the owner of a contiguous lot or parcel which fronts on the same access right-of-way subsequent to December 31, 1972, and the lot or parcel has access to an access right-of-way which meets the minimum requirements established by this code.

[Ord. 3696 § 1, 2008].

17.50.020 Parking space requirements.

[Refer to ECDC 17.50.010(C) and 17.50.070 for standards relating to the downtown business area.]

A. *Residential.*

1. Single-family and multifamily.

   a. Single-family dwellings: two spaces per principal dwelling unit, except:

   b. Multiple residential according to the following table:

Type of multiple dwelling unit	Required parking spaces per dwelling unit
Studio	1.2
1 bedroom	1.5
2 bedrooms	1.8

Type of multiple dwelling unit	Required parking spaces per dwelling unit
3 or more bedrooms	2.0

2. Boarding house: one space per bed.

3. Rest home, nursing home, convalescent home, residential social welfare facilities: one space per three beds.

~~4. Single-family dwellings with accessory dwelling unit: three spaces total.~~

B. *Business.*

1. Retail stores, including art galleries, convenience stores, department stores, discount stores, drug stores, grocery stores, supermarkets: one space per 300 square feet;

2. Furniture, appliances, and hardware stores: one space per 600 square feet;

3. Services uses, including barber shops, beauty shops, dry cleaners, laundries, repair shops: one space per 600 square feet;

4. Medical, dental and veterinarian offices, banks and clinics: one space per 200 square feet;

5. Business and professional offices with on-site customer service: one space per 400 square feet;

6. Offices not providing on-site customer service: one space per 800 square feet;

7. Bowling alley: four spaces per bowling lane;

8. Commercial recreation: one space per 500 square feet, or one space for each customer allowed by the maximum permitted occupant load;

9. Car repair, commercial garage: one space per 200 square feet;

10. Drive-in restaurants, automobile service station, car dealer, used car lot: one space per 500 square feet of lot area;

11. Restaurant, tavern, cocktail lounge: if less than 4,000 square feet floor area, one per 200 square feet gross floor area; if over 4,000 square feet floor area, 20 plus one per 100 square feet gross floor area in excess of 4,000 square feet;

12. Plant nurseries (outdoor retail area): one space per five square feet of outdoor retail area;

13. Motels and hotels: one space per room or unit;

14. Retail warehouse, building materials yard: one space per 1,000 square feet of lot area or one per three employees;

15. Manufacturing, laboratories, printing, research, automobile wrecking yards, kennels: one space per two employees on largest shift;

16. Mortuary: one space per four fixed seats or per 400 square feet of assembly area, whichever is greater;

17. Marina: to be determined by the hearing examiner, using information provided by the applicant, and the following criteria:

a. The type of storage facility (moorage, dry storage, trailer parking) and intended use (sailboats, fishing boats, leisure boats),

b. The need to accommodate overflow peak parking demand from other uses accessory to the marina,

c. The availability and use of public transit;

18. Storage warehouse: one space per employee;

19. Wholesale warehouse: one space per employee;

20. Adult retail store: one space per 300 square feet;

21. Sexually oriented business (except adult retail store): one space for each customer allowed by the maximum permitted occupant load.

C. *Community Facilities.*

1. Outdoor places of public assembly, including stadiums and arenas: one space per eight fixed seats, or per 100 square feet of assembly area, whichever is greater;

2. Theaters: one space per five seats;

3. Indoor places of public assembly, including churches, auditoriums: one space per four seats or one space per 40 square feet of assembly area, whichever is greater;

4. Elementary schools, junior high schools, boarding schools (elementary through senior high), residential colleges and universities: six spaces per classroom, or one space per daytime employee, whichever is greater;

5. Nonresidential colleges and universities: one space per daytime employee;

6. High schools (senior): one space per daytime employee;

7. Museums, libraries, art galleries: one space per 250 square feet;

8. Day-care centers and preschools: one space per 300 square feet, or one per employee, plus one per five students, whichever is larger;

9. Hospitals: three spaces per bed;

10. Maintenance yard (public or public utility): one space per two employees.

D. *Electric Vehicle (EV) Charging Infrastructure Parking Standards.* See Chapter 17.115 ECDC for parking standards relating to electric vehicle (EV) charging infrastructure. [Ord. 4251 § 2 (Exh. A), 2022; Ord. 3496 § 2, 2004].

20.01.003 Permit type and decision framework.

A. *Permit Types.*

TYPE I	TYPE II-A	TYPE II-B	TYPE III-A	TYPE III-B	TYPE IV	TYPE V
Zoning compliance letter	~~Accessory dwelling unit~~	Contingent critical area review		Essential public facilities	Site specific rezone	
Lot line adjustment	Formal interpretation of the text of the ECDC by the director	Shoreline substantial development permit, where public hearing not required per ECDC 24.80.100	Technological impracticality waiver for amateur radio antennas		Development agreements	Zoning text amendment; area-wide zoning map amendments

Commented [MC14]: ADUs will no longer require a conditional use permit but rather a building permit similar to a single family residence.

~~Chapter 20.21~~

~~ACCESSORY DWELLING UNITS~~

Commented [MC15]: Moved to ECDC 16.20 and updated consistent with HB 1337 and best practices

~~Sections:~~

~~20.21.000 Purpose.~~

~~The purpose of this chapter is to regulate the establishment of accessory dwelling units within or in conjunction with single-family dwellings while preserving the character of single-family neighborhoods. The primary purpose of this chapter shall be to permit establishment of additional living quarters within single-family residential neighborhoods in order to (1) make it possible for adult children to provide care and support to a parent or other relatives in need of assistance, or (2) provide increased security and companionship for homeowners, or (3) provide the opportunity for homeowners to gain the extra income necessary to help meet the rising costs of home ownership, or (4) to provide for the care of disabled persons within their own homes. [Ord. 3294 § 1, 2000].~~

~~20.21.010 Accessory dwelling units prohibited.~~

~~No accessory dwelling unit shall be permitted within any planned residential development or any individual lot within such a development. [Ord. 3465 § 5, 2003].~~

~~20.21.020 Density limitation – Limitation on the total occupancy.~~

~~No lot shall be occupied by more than one family as defined in ECDC 21.30.010. This limitation shall be interpreted to accomplish its purpose, which is to ensure that the approval of an accessory dwelling unit shall not increase the overall density of a single-family residential neighborhood. [Ord. 4260 § 1 (Exh. A), 2022; Ord. 3294 § 1, 2000].~~

~~20.21.025 Application and filing fee.~~

~~A. *Application.* Any person desiring approval of an accessory dwelling unit as defined by the community development code shall submit an application containing all of the information required by ECDC Title 20. as well as the following information:~~

~~1. An affidavit, signed by the property owner before a notary public, affirming that the owner occupies either the main building or the accessory dwelling unit for more than six months of the year.~~

2. A covenant in a form acceptable to the city attorney and suitable for recording with the county auditor, providing notice to future owners or long-term lessors of the subject site that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling unit or the primary dwelling by the current owner of the property, and that the current owner must have a signed affidavit on file with the city meeting the requirements of subsection (A)(1) of this section. The covenant shall also require any owner of the property to notify a prospective buyer of the limitations of this chapter and to provide for the removal of improvements added to convert the premises to an accessory dwelling unit and the restoration of the site to a single-family dwelling in the event that any condition of approval is violated.

3. If the permit lapses or the use ceases, at the request of the applicant, the city shall record at its expense notice that the covenant and permit are void and without further effect.

B. *Filing Fee.* All applications for an accessory dwelling unit permit shall be accompanied by the filing fee for the permit and an amount sufficient to pay the recording fee of the covenant with the Snohomish County auditor in the event the accessory dwelling unit conditional use permit should be approved. [Ord. 3294 § 1, 2000].

20.21.030 Criteria for attached accessory dwelling units.

A. *Permit Required.* Any person who occupies or permits another person to occupy an attached accessory dwelling unit as a place of residence shall first obtain . The permit shall be reviewed and processed as a Type II decision (Staff decision – Notice required).

B. *Number of Units.* A single-family dwelling may have no more than one accessory dwelling unit per lot. *Building*

C. *Size.* In no case shall an accessory dwelling unit be (1) larger than 40 percent of the livable floor area of the principal dwelling, (2) nor more than 800 square feet, (3) nor have more than two bedrooms; provided, if the accessory dwelling unit is completely located on a single floor, the planning manager may allow increased size up to 50 percent of the floor area of the principal dwelling in order to efficiently use all floor area, so long as all other standards set forth in this chapter are met.

D. *Utilities and Services. Location and Appearance.* The single-family appearance and character of the residence shall be maintained when viewed from the surrounding neighborhood. The design of the accessory dwelling unit shall be incorporated into the design of the principal dwelling unit and shall be designed to maintain the architectural design, style, appearance and character of the main building as a single-family residence using matching materials, colors, window style, and roof design. The primary entrance to the accessory dwelling unit shall be located in such a manner as to be unobtrusive when viewed from the street. Whenever possible, new entrances should be placed at the side or rear of the building. Only one electric, one gas meter, and one water meter shall be allowed for the entire building, serving both the primary residence and the accessory dwelling unit. An additional mailbox can be added to the lot if the accessory dwelling unit is approved according to the requirements for an accessory dwelling unit found in Chapter 20.21 ECDC. Accessory dwelling units must be located within or attached to single-family dwelling units.

E. *Parking.* One off-street parking space in addition to the parking spaces normally required for the principal dwelling shall be required to be provided for the accessory dwelling unit, but in no event less than three spaces per lot.

F. *Occupancy.* Either the primary dwelling or the accessory dwelling unit shall be owner-occupied. "Owner-occupied" shall mean a property owner who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year, and at no time receives rent for the owner-occupied unit. The owner(s) shall not rent the designated owner-occupied unit at any time during the pendency of the ADU permit; any such rental shall void the permit. The owner(s) shall not rent any portion of the owner-occupied residence either during the owner(s)' occupancy or while the owner is absent from the owner-occupied unit for any period. In no event shall the occupants of the lot exceed one family as defined in this code.

G. *Safety, Light, Ventilation, Floor Area and Similar Factors.* Accessory dwelling units shall comply with all applicable requirements of the Uniform Housing Code and the Uniform Building Code adopted by ECDC Title 19 and shall comply in all respects with the provisions of the Edmonds Community Development Code. No permit for an accessory dwelling unit shall be issued to a nonconforming structure unless that structure is brought into conformance with the then current provisions of this code. [Ord. 4260 § 2 (Exh. A), 2022; Ord. 3736 § 53, 2009; Ord. 3294 § 1, 2000].

~~20.21.040 Nontransferability.~~

~~A permit for an accessory dwelling unit shall not be transferable to any site other than the subject site described in the application. [Ord. 3294 § 1, 2000].~~

~~20.21.050 Preexisting accessory dwelling units.~~

~~That portion of a single-family residence which meet the definition of accessory dwelling unit which was in existence prior to February 1, 2000 , may continue in existence provided the following requirements are met:~~

~~A. An application for an accessory dwelling unit which meets the appropriate criteria contained in ECDC 20.21.030 is submitted within one year of February 1, 2000. The planning manager may waive the size limitations contained in ECDC 20.21.030 if he or she finds that the reduction of floor area required to bring the preexisting unit into compliance is impractical to achieve.~~

~~B. The unit complies with the minimum requirements of the Uniform Housing Code. [Ord. 3294 § 1, 2000].~~

~~20.21.060 Permit conditions.~~

~~In addition to any conditions imposed during the permit approval process, permits for accessory dwelling units shall state and are expressly subject to the condition that such a permit shall expire automatically whenever:~~

~~A. The accessory dwelling unit is substantially altered and is thus no longer in conformance with the plans and drawings reviewed and approved by the permitting authority and building official.~~

~~B. The subject site ceases to maintain the required number of parking spaces.~~

~~C. The property owner ceases to reside in either the primary residence or the accessory dwelling unit, the owner-occupied unit is rented, or the current owner fails to file the affidavit required under ECDC 20.21.025(A)(1). [Ord. 3294 § 1, 2000].~~

20.35.020 Applicability.

A. Planned residential developments (PRDs) may be located in any residential zone of the city. Uses permitted in the PRD shall be governed by the use regulations of the underlying zoning classification.

1. PRDs in single-family zones shall be comprised of detached dwelling units on individual lots, and any appurtenant common open space, recreational facilities or other areas or facilities.

a. The PRD process is not available to single-family lots that are incapable of further subdivision.

b. The PRD process shall not be used to reduce any bulk or performance standard not specifically referenced herein. Bulk standards not referenced may be varied only in accordance with Chapter 20.85 ECDC, Variances, or through the modification provision provided through the subdivision process as outlined in Chapter 20.75 ECDC.

B. Property included in a PRD application must be under the ownership of the applicant, or the applicant must be authorized pursuant to a durable power of attorney or other binding contractual authorization in a form which may be recorded in the land records of Snohomish County to process the application on behalf of all other owners.

C. ~~Accessory dwelling units and h~~ Home use occupations restricted by ECDC 20.20.010(B) ~~015(D)~~ shall not be permitted within a PRD. [Ord. 3465 § 1, 2003].

Commented [MC16]: The PRD code currently prohibits ADUs. That restriction is proposed to be eliminated since a PRD is just another type of single family residential subdivision. As long as the PRD lot can meet the ADU requirements proposed in ECDC 16.20.050, it could have an ADU.

21.05.015 Accessory dwelling unit~~, attached~~.

An ~~attached~~ accessory dwelling unit ~~is a structure attached to or constructed within a single-family dwelling~~ (ADU) is a subordinate dwelling unit added to, created within, or detached from a principal dwelling unit, providing independent living facilities that include permanent provisions for living, sleeping, eating, cooking and sanitation. Accessory dwelling unit does not include recreational vehicles or mobile homes. ~~which has living facilities for one individual or family separate from the primary single-family principal dwelling unit including at least, but not limited to, a kitchen, bathroom, and sleeping quarters. An ADU shall not have its own mailbox,~~

~~water meter, gas meter, and all garbage must be kept within a screened area in common to the single-family home~~. [Ord. 3294 § 2, 2000].

21.20.050 Dwelling unit.

Dwelling unit means a residential living unit that provides complete independent living facilities ~~building, or portion thereof, providing complete housekeeping facilities~~ for one ~~or more~~ persons ~~family~~, which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Dwelling unit does not include recreation vehicles or mobile homes. (See also, Multiple Dwelling Units ~~and Family~~.) [Ord. 4260 § 3 (Exh. A), 2022].

21.30.010 Family.

A. Family means individuals related or unrelated by genetics, adoption, or marriage living in a dwelling unit.

B. The term "family" shall include:

1. State licensed adult family homes required to be recognized as residential use pursuant to Chapter 70.128 RCW;

2. State licensed foster family homes and group care facilities as defined in RCW 74.15.180, subject to the exclusion of subsection (C) of this section;

3. Group homes for the disabled required to be accommodated as residential uses pursuant to the Fair Housing Act amendments as the same exists or is hereafter amended.

C. The term "family" shall exclude individuals residing in halfway houses, crisis residential centers as defined in RCW 74.15.020(1)(c), group homes licensed for juvenile offenders, or other facilities, whether or not licensed by the state, where individuals are incarcerated or otherwise required to reside pursuant to court order under the supervision of paid staff and personnel.

~~D. *Accessory Dwelling Units (ADUs).* When an accessory dwelling unit (ADU) is approved pursuant to Chapter 20.21 ECDC, only one of the dwelling units, either the primary residence or the ADU, shall be used to house renters.~~

D. ~~E.~~ Nothing herein shall be interpreted to limit normal hosting activities associated with residential use. [Ord. 4260 § 4 (Exh. A), 2022; Ord. 3571 § 1, 2005; Ord. 3184 § 1, 1998]~~.~~

21.35.013 Gross Floor Area.

An interior habitable area of an accessory dwelling unit, including basements and attics but not including unconditioned space, such as a garage or non-habitable accessory structures.

Commented [RH17]: Consistent with RCW 36.70A.696

21.80.075 Principal dwelling unit

Primary housing unit located on the same lot as an accessory dwelling unit.

Commented [RH18]: Consistent with RCW 36.70A.696

21.90.080 Single-family dwelling (unit).

Single-family dwelling (and single-family dwelling unit) means a detached building configured as described herein and occupied or intended to be occupied by one family, limited to one per lot. A single-family dwelling shall be limited to one mailbox, electric meter, gas meter, and water meter. It will also have common access to and common use of all living, kitchen, and eating areas within the dwelling unit. ~~An additional mailbox can be added to the lot if it is associated with an accessory dwelling unit approved according to the requirements for an accessory dwelling unit found in Chapter 20.21 ECDC.~~ [Ord. 4260 § 5 (Exh. A), 2022].