

## Edits as Recommended by the Technical Review Committee

### Chapter 19.20 ACCESSORY DWELLING UNITS<sup>1</sup>

#### 19.20.010 Purpose.

It is the provision of this chapter to implement the goals and policies as identified under the housing element of the city of Lynden Comprehensive Plan.

- A. The city of Lynden will encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities and housing types, and encourage the preservation of existing housing.
- B. To consider other creative methods, such as cluster housing, cottage housing, accessory housing, and transfer of development rights to increase density and promote the opportunity for ownership of single-family homes.
- C. The city will also look to provide homeowners with a means of obtaining rental income, companionship, security and services through tenants in either the accessory dwelling unit or principal unit of the single-family dwelling.
- D. To provide a place to facilitate the care of family members who are unable to live independently.

[E. To address the State of Washington Accessory Dwelling Unit \(ADU\) provisions per RCW 36.70A.680 – 681.](#)

(Ord. No. 1657, § C(Ex. A), 12-19-2022)

#### 19.20.020 Accessory dwelling unit.

Accessory dwelling unit (ADU) is a subordinate, complete living unit which includes permanent kitchen and sanitary facilities, that is secondary to a single-family home located on the same lot as defined in LMC Section 17.01.030 and further subject to the following requirements:

- A. ADU's are permitted in all residential zones including planned residential developments provided that ~~only a maximum of two (2) ADUs are allowed~~ ~~per lot as an accessory use to a single-family home.~~ ADU's are permitted in multi-family zones only on lots which are restricted, by lot area, to a single-family residence.
- B. ADU's can be attached as a separate unit within the existing home or an addition to the home, or detached as a separate structure on the lot, ~~or any configuration of attached or detached units.~~
- C. ~~Only one~~ ~~Two (2) ADUs are allowed~~ per detached single-family residence. ADU's are not permitted as part of any other housing type. Accessory dwelling units are exempt from the density limitations of the underlying zone.

Commented [DT1]: A, B, C, D - required by HB1337

<sup>1</sup>Editor's note(s)—Ord. No. 19.20, § C(Ex. A), adopted Dec. 19, 2020, repealed the former Ch. 19.20, §§ 19.20.010—19.20.040, and enacted a new Ch. 19.20 as set out herein. The former Ch. 19.20 pertained to similar subject matter and derived from Ord. No. 1547, § 9, adopted Dec. 4, 2017.

- D. ~~An attached ADU ADUs of all types are is~~ limited to a maximum of one thousand square feet ~~and two bedrooms. A detached ADU is limited to a maximum of eight hundred square feet and one bedroom.~~
- E. ~~A detached ADU, or ADU addition, must be of the same construction type as the primary structure. The exterior finish, material, trim, and roof pitch for the ADU must be similar in type and size of the primary structure.~~
- F. ~~Only one entrance for the entire primary structure and ADU combined shall be visible from the primary street. A detached ADU shall not be forward to the primary unit in relation to the front yard.~~
- G. Parking spaces dedicated to the ADU are required in addition to the parking required for the primary residence. One parking space per ADU bedroom, in addition to those required for the single family residence, will be required for the ADU's. All parking spaces for the primary structure and the ADU must be located on site-
1. On lots of 6,000 square feet or larger, one (1) parking space per ADU bedroom is required up to a maximum requirement of two (2) spaces dedicated to the ADU.
  2. On lots less than 6,000 square feet only one parking space must be dedicated to the ADU regardless of ADU bedroom count.
- H. ~~If necessary based on building location, landscaping shall be installed to provide privacy and screening of the adjacent properties. A landscape plan must be approved by the planning director.~~
- I. Utilities. All utilities servicing the site may require upgrades based on the project size. Any utilities installed on site must meet the requirements of the city of Lynden Manual for Engineering Design and Development Standards.
- J. Until January 1, 2026, ~~the~~ primary residence or the ADU must be owner occupied. ~~A~~ The required ADU perpetual covenant against the property, approved by the planning Community Development Department must be signed by the owner and recorded with the Whatcom County Assessor's Office which specifies this requirement.
- K. ~~The ADU shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit except that, per RCW 36.70A.681, the city shall not prohibit the sale or other conveyance of a condominium unit independently of the primary structure solely on the grounds that the condominium unit was originally built as an accessory dwelling unit.~~

(Ord. No. 1657, § C(Exh. A), 12-19-2022)

### 19.20.030 Setback and height requirements.

The following text provides regulations for height and setback requirements:

- A. All setbacks are measured from the property line to the building foundation. It is the property owner's responsibility to have the property lines clearly marked for inspection.
- B. ~~An attached ADU may be built as close as seven feet to the side property line provided that the living area setbacks total the minimum required within the underlying zone.~~
- C. ~~A detached ADU may be built as close as ten feet to the rear property line and shall follow the side setbacks 1 in accordance with the requirements of the underlying zone. All ADUs shall follow the setback requirements for the underlying zone.~~
1. Detached ADUs are subject to accessory structure setbacks except that-~~Detached ADUs may be situated on a lot line that abuts a public alley. No ADU may encroach into an existing easement, unless the city or county routinely plows snow on the public alley.~~
  2. Attached ADUs are subject to the setbacks associated with the primary structure.

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**Commented [DT2]:** Deleted as this is an aesthetic standard.

**Commented [DT3]:** Deleted as an aesthetic standard.

**Commented [HG4]:** RCW36.70A.681(2,a). The city may not:  
 ii) Require more than one off-street parking space per unit as a condition of permitting development of accessory dwelling units on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits; and  
 (iii) Require more than two off-street parking spaces per unit as a condition of permitting development of accessory dwelling units on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

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**Commented [DT5]:** The city may not require owner-occupied - RCW 36.70A.681(1,b). Also - as such, the covenant is no longer required.

**Commented [DT6]:** We may need to clarify "detached" ADU setbacks in light of this. "Underlying zone" would default to accessory structure setbacks? But, this would be different for alley lots if it isn't plowed. I don't believe the City plows alleys so no setback on any public alley in town.

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~~D.C.~~ An existing non-conforming building shall not be used for an ADU unless the structure is brought into conformance with City Code except that existing buildings that violate setbacks or lot coverage may be converted to include an ADU. The ADU conversion shall not result in an increase in the nonconformity.

~~E.~~ On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be twenty-five feet.

~~F.D.~~ On corner lots in all residential zones, the side yard setback adjacent to the street must reflect the minimum side yard of that zone.

~~G.E.~~ Only one driveway access is allowed per lot. Driveway access shall be allowed according to any requirements for the underlying zone.

~~H.~~ Detached ADU's may not be located forward of the primary residential structure.

~~I.~~ To be considered a "detached" structure, the minimum distance between two structures shall be six feet measured from foundation to foundation with no projections greater than eighteen inches.

~~J.E.~~ The maximum height of any detached structure housing an ADU shall be ~~eighteen~~ twenty-four (24) feet.

~~K.G.~~ The maximum lot coverage is subject to the associated zone. Thirty-five percent (is all RS zones, thirty-five percent in the RMD zone, thirty-five percent in the RM-1 zone, forty percent in the RM-2 and RM-3 zones and forty-five percent in the RM-4 zone. For lot coverage requirements within a PRD check with the PRD contract. Lots which are existing non-conforming in that they exceed lot coverage requirements are not prevented from converted existing structures into ADUs. ADU conversion shall not result in an increase in the nonconformity. Refer to LMC 19.35 regarding permitted actions as to the maintenance and demolition of non-conforming structures.

(Ord. No. 1657, § C(Exh. A), 12-19-2022)

#### 19.20.040 Permitting and enforcement.

- A. Covenant Application. In addition to any building permit that may be required for the creation of an ADU, the property owner shall apply for an ADU permit covenant with the planning Community Development Department. Application for the covenant must demonstrate that the ADU meets all requirements as listed above. The applicant must also acknowledge any private covenants such as those imposed by a homeowners association that may exist on the property.
- B. Applicable Codes. The accessory dwelling unit shall comply with all construction codes set forth in the city of Lynden Engineering Design and Development Standards and the Lynden Zoning Code however, per RCW 36.70A.681 public street improvements shall not be required as a condition of permitting ADUs.
- C. Design Requirements. A detached ADU must be reviewed consistent with applicable portions of LMC Section 19.22 Residential Design Requirements as they relate to accessory structures.
- D. Inspection. Prior to the approval of an ADU, the city may inspect the property to confirm that all applicable requirements of this code and other codes have been met. An inspection fee is required as set by the city's unified fee schedule.
- E. Recording Requirements. Prior to a request for final building ADU inspection for either an attached or detached accessory dwelling unit, the property owner shall file with the Whatcom County Assessor an accessory dwelling unit covenant with all conditions and restrictions as provided by the city. The covenant will require owner occupancy of either the primary residence or the ADU until January 1, 2026. After this date owner occupancy is not required.

**Commented [DT7]:** Should clarify G, H, and I:

G: Would be the typical driveway standard for residential. G may just be a delete.

H: Is this an aesthetic standard?

I: "Detached" as 6 ft is defined in our Design Standard chapter. 6 ft is city-wide requirement for detached accessory structures - this wouldn't be more restrictive for ADUs so it could probably remain.

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- F. [Successors.](#) The [ADU](#) covenant is binding upon any successor in ownership of the property. Lack of compliance shall ~~cause for~~[cause](#) the city to revoke the occupancy of ~~the~~[the](#) accessory dwelling unit ~~permit~~[and / or cite the property for a zoning violation and assess associated fines.](#)
- G. [Variances.](#) Any variances to this section will be subject to Chapter 19.47 of the Lynden Municipal Code.
- H. [Impact Fees.](#) [As of January 1, 2026, the city will assess impact fees on the construction of ADUs in the amount of fifty percent \(50%\) of the impact fees that would be imposed on the primary unit.](#)

(Ord. No. 1657, § C(Exh. A), 12-19-2022)