

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF SUMAS, WASHINGTON, AMENDING SUMAS MUNICIPAL CODE (SMC) TITLE 20 REGARDING ACCESSORY DWELLING UNITS (ADUs).

WHEREAS, on May 8, 2023, the Washington State Legislature passed Engrossed House Bill 1337 which expanded requirements for the construction of accessory dwelling units and required all cities which plan under the Growth Management Act (GMA) to adopt regulations regarding the construction of accessory dwelling units within six months of the adoption of their next Comprehensive Plan Update;

WHEREAS, Sumas' next Comprehensive Plan Update is due December 31, 2025;

WHEREAS, the Sumas Municipal Code does not have any formal regulations allowing for the construction of accessory dwelling units within the residential zoning districts;

WHEREAS,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMAS, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1: The following is added as Chapter 20.55 to the Sumas Municipal Code to read in its entirety as follows:

Chapter 20.55 Accessory Dwelling Units (ADUs)

Sections:

20.55.010 Purpose.

20.55.020 Definitions.

20.55.030 General Requirements.

20.55.040 Lot Size.

20.55.050 Coverage Requirements.

20.55.060 Height.

20.55.070 Setbacks.

20.55.080 Parking.

20.55.090 Owner Occupancy.

20.55.100 Condominium Sale.

20.55.110 Landscaping.

20.55.120 Permitting Requirements.

20.55.010 Purpose.

It is the purpose of this legislation to implement the policy provisions of the housing element of the City's Comprehensive Plan as follows:

- (1) By clarifying the provisions to which accessory dwelling units may be permittable within the City of Sumas.
- (2) To provide homeowners with a means of obtaining rental income, companionship, security, and services through tenants in either the accessory dwelling unit or principal dwelling unit.
- (3) To provide senior citizens with the ability to age in place and to facilitate the care of family members who are unable to live independently.

20.55.020 Definitions.

For the purposes of this title, certain words and terms shall be interpreted as follows:

"Accessory dwelling unit (ADU)" means a dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome or other housing unit.

"Attached accessory dwelling unit (A-ADU)" means an accessory dwelling unit that is attached by at least one common wall to the principal dwelling unit.

"Detached accessory dwelling unit (D-ADU)" means an accessory dwelling unit that is completely structurally independent from the principal dwelling unit.

"Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

"Principal dwelling unit (PDU)" means a residential living unit that is the primary dwelling unit on a lot that also houses accessory dwelling units.

20.55.030 General Requirements.

All ADUs shall meet and comply with the following regulations:

- (1) ADU Construction. A maximum of two ADUs may be constructed on a single lot. Pairs of ADUs may be constructed in the following combinations:
 - (A) Two A-ADUs, such as units in a basement or addition;
 - (B) One A-ADU and one D-ADU; or
 - (C) Two D-ADUS, which may be comprised of either one or two detached structures, pursuant to the lot coverage and setback requirements as per sections 20.55.050 and 20.55.070 of this chapter.
- (2) Existing Structures. A-ADUs may be added to or converted from existing accessory structures, such as detached garages or workshops, pursuant to the parking requirements of this chapter.
- (3) Sewer Restriction. ADUs are prohibited on properties which are not served by public sewer.
- (4) Size and Scale. The ADU maximum size shall be no more than one thousand (1,000) square feet and minimum size shall be no less than seven hundred (700) square feet.
- (5) Flood Damage Prevention. ADU construction must comply with Chapter 14.20 SMC Flood Damage Prevention.
- (6) Entrances. The following are regulations regarding the design and placement of ADU entrances:
 - (A) A-ADU entrances which are oriented to the street shall be designed to appear as a secondary entrance to the PDU and shall appear incidental in nature.
 - (B) Both D-ADU and PDU entrances should be oriented toward the street, where practical.
- (7) Addressing. ADUs and PDUs on the same property shall have the same street address number, but be delineated using a letter A, B, and/or C at the end of the number.
- (8) Utilities. D-ADUs shall have separate utility hookups from the PDU and the owner of the D-ADU shall be held responsible for paying all applicable hookup fees.
- (9) Design. ADUs should be designed to include exterior finish materials, trim, and roof pitch which are similar in type, size, and placement material to that of the PDU, including 2-foot eave overhang and proper foundational support, and following all adopted building codes.

(10) Short-term Rentals. ADUs in which the property owner also owns all dwelling units on the property may be used as a short-term rental, pursuant to Chapter 20.52 of this title.

20.55.040 Lot Size.

The minimum lot size of a property containing an ADU shall be consistent with the minimum lot size requirement of the respective zone.

20.55.050 Coverage Requirements.

A property which contains an ADU may have the minimum lot coverage requirement of that zone be reduced so that no more than thirty-five percent of the lot area shall be covered by buildings.

20.55.060 Height.

A D-ADU may not exceed a roof height of thirty-five feet when measured from the bottom of the foundation, or than that of the PDU, whichever is lower. An A-ADU may not exceed a roof height than that of the PDU, unless the A-ADU is converted from an existing structure.

20.55.070 Setbacks.

All ADUs must comply with the setback requirements of the existing zone in which the ADU is located. If no setback requirements are outlined in the applicable zoning chapter, refer to the setback requirements outlined in Chapter 20.32 of this title.

20.55.080 Parking.

- (1) Properties which contain ADUs must designate two off-street parking spaces for each ADU.
- (2) If the property abuts a public alley, ADU parking shall be accessed from the alley, where practical.

20.55.090 Owner Occupancy.

The owner of the respective property must inhabit at least one of the dwelling units more than six months out of the year.

20.55.100 Condominium Sale.

The sale or other conveyance of a condominium unit independently of a PDU shall be allowed, provided all applicable codes adopted by the jurisdiction are met.

20.55.110 Landscaping.

Properties which include an ADU must provide open space and landscaping that are useful for both the ADU and the PDU. Landscaping shall provide for the privacy and screening of adjacent properties. The owner of the property shall be given sole responsibility of maintaining the landscaping of the whole property, pursuant to Chapter 20.57 of this title, unless a mutual agreement can be met between the residents of the PDU and ADU. This agreement must be submitted to the Building Official in addition to a proposed landscaping plan prior to issuance of an occupancy certificate.

20.55.120 Permitting and Enforcement.

- (1) Application. The property owner shall apply for an ADU permit with the City Building Official. This application shall be processed as a Class II permit and the requirements outlined for said permit class in Chapter 20.08 of this title.
- (2) Applicable Codes. The ADU shall comply with all construction codes set forth in Title 14 of the Sumas Municipal Code and the latest adopted international residential code and any other applicable codes, except as provided in this chapter.
- (3) Inspection. After receipt of a complete application and prior to approval of an ADU, the City Building Official shall inspect the property to confirm that all applicable requirements of this code and other codes are met.
- (4) Permit. Upon compliance of the provisions of this section, a permit for an ADU will be issued.
- (5) Elimination/Expiration. Elimination of an ADU may be accomplished by the owner, recording a certificate with the Whatcom County Auditor and Sumas Building Official stating that the ADU no longer exists on the property, contingent on verification by the Sumas Building Official.
- (6) Variance. Variances to this chapter shall require variance approval as outlined in Chapter 20.64 SMC

(7) Violations. Any violation of any provision hereof is a violation under Chapter 20.75 SMC.

SECTION 2: Section 20.28.020 of the Sumas Municipal Code is hereby amended in its entirety to read as follows:

20.28.020 Permitted uses.

Permitted uses in the R-7 district are as follows:

- (1) Single-family dwelling, including site-built and manufactured;
- (2) Accessory buildings such as garage, carport, greenhouse, workshop;
- (3) Accessory dwelling units, pursuant to Chapter 20.55 of this title;
- (4) Private swimming pool;
- (5) Adult daycare, subject to administrative conditions addressing hours of operation, parking, and pick up and drop-off.

SECTION 3: Section 20.32.020 of the Sumas Municipal Code is hereby amended in its entirety to read as follows:

20.32.020 Permitted uses.

Permitted uses in the R-6 district are as follows:

- (1) Detached single-family dwellings, including site-built and manufactured;
- (2) Accessory buildings such as garage, carport, greenhouse;
- (3) Accessory dwelling units, pursuant to Chapter 20.55 of this title;
- (4) Private swimming pools;
- (5) Adult daycare, subject to administrative conditions addressing hours of operation, parking, and pick-up and drop-off.

SECTION 4: Section 20.44.030 of the Sumas Municipal Code is hereby amended in its entirety to read as follows:

20.44.030 Conditional uses.

Conditional uses in the I district, unless otherwise specifically prohibited, are as follows:

(1) Light manufacturing and assembly using significant quantities of the following materials and/or the following processes, where a “significant quantity” is defined as a barrel or more at a single time:

- (A) Acetylene;
- (B) Distilled alcohol;
- (C) Asphalt or tar, petroleum products, and petroleum by-products;
- (D) Brick, tile, or terra cotta;
- (E) Chemicals such as acid, ammonia, bleach, chlorine, dye stuff, glue, gelatin, or size;
- (F) Concrete, cement, lime, gypsum, or plaster of paris;
- (G) Fats, oils, and soap;
- (H) Forging or smelting of metal;
- (I) Highly flammable materials;
- (J) Lumber mills and wood planing operations within an enclosed structure;
- (K) Oilcloth, linoleum, or vinyl;
- (L) Paint, shellac, turpentine, lacquer, or varnish;
- (M) Paper manufacturing within an enclosed structure;
- (N) Any combustible fuel;
- (O) Storage of “significant quantities” of any of the above materials or products;
- (P) Wood fired boilers;
- (Q) Temporary or permanent uses that typically do not require the construction of permanent buildings and that involve the use of equipment to stockpile, process, or recycle raw materials or create a product. Examples include but are not limited to asphalt batch plants; rock, sand and/or gravel storage or sorting operations; log or mineral storage operations; and similar uses;

(2) Heavy manufacturing and assembly of any product or material not prohibited hereunder;

(3) The following retail trade establishments:

- (A) Lumber and building materials;
- (B) Motor vehicle and heavy equipment dealers (new and used);
- (C) Boat dealers;
- (D) Heating fuel and ice dealers;
- (E) Farm supplies;

- (F) Industrial equipment and supplies;
- (4) Crematories;
- (5) Monument and stone works;
- (6) Go-kart tracks for karts with an engine displacement under two hundred fifty cubic centimeters;
- (7) Live-work combined uses where an attached, accessory dwelling unit or apartment is located within a structure occupied by a nonresidential use allowed in the industrial district; provided that the following criteria are met at all times throughout the residential occupancy of the structure:
 - (A) The accessory dwelling unit or apartment shall be occupied by the owner of the business or someone employed by the business providing the principal permitted use;
 - (B) The accessory dwelling unit or apartment shall not exceed eight hundred square feet of living area;
 - (C) Except for those requirements enumerated in this section, the structure shall comply with Chapter 20.55 of this title as well as all other applicable zoning and building code requirements. This includes those set forth in the International Building Code addressing fire suppression and minimum separations between occupancies;
 - (D) Approval of the structure under this subsection shall not eliminate the requirement for the principal use to obtain approval of a conditional use permit where such approval is required pursuant to this chapter, except for the following uses:
 - (i) Uses included under Sections 20.44.020 and subsection (3) or (5) of this section; or
 - (ii) Equipment and vehicle repair; or
 - (iii) Industrial, commercial and residential service providers; or
 - (iv) Other similar uses proposed by the applicant and approved by the city council in conjunction with approval of the conditional use permit for the structure;
 - (E) The structure is located within that portion of the industrial district bounded by the Burlington Northern main line, West Third Street, the Burlington Northern spur line, Bob Mitchell Way, and Garfield Street, all as they are not presently located;

- (F) No more than one accessory dwelling unit or apartment shall be provided per nonresidential structure, except that in structures containing more than one nonresidential use no more than one accessory dwelling unit or apartment per nonresidential use shall be provided and each residential unit or apartment shall be directly connected to the nonresidential use to which it is accessory;
 - (G) The required number of parking spaces shall be as specified for each business use or type of use under Chapter 20.56; and
 - (H) The city council is authorized to establish conditions addressing the live-work structure, site improvements and uses allowed in the structure through the conditional use permit approval process; and all use of a live-work structure shall be in compliance with all such conditions of approval;
- (8) Recycling centers and facilities processing recycled materials within an enclosed structure;
 - (9) Power generation plants utilizing natural gas as a single fuel that generate three hundred fifty megawatts or more per hour, and all dual-fuel power generation plants;
 - (10) Indoor shooting ranges;
 - (11) Other uses similar to the above.

SECTION 2: Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clauses or phrase thereof separately and independently and, in the event that any one or more sections, subsections, sentences, clauses or phrases may later be declared invalid or unconstitutional, then any ordinance or ordinances, or parts thereof, amended or repealed by such portion of this ordinance shall remain in full force and effect.

SECTION 3: Effective Date. This Ordinance shall take effect five (5) days after the date of publication.

PASSED by the City Council and approved by the Mayor of the City of Sumas, Washington this _____th day of July, 2024.

CITY OF SUMAS, WASHINGTON

Bruce Bosch, Mayor

Attested/Authenticated:

Michelle Quinn, City Clerk

Approved as to form:

James J. Wright, City Attorney