

PROPOSED BY: Planning & Development Services
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**ADOPTING AMENDMENTS TO THE
WHATCOM COUNTY ZONING CODE
RELATING TO DENSITY CREDITS AND LOT SIZES**

WHEREAS, The Whatcom County Planning Commission held a public hearing and issued recommendations on the proposed amendments; and

WHEREAS, The County Council considered Planning Commission recommendations;

WHEREAS, The County Council held a public hearing; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal consists of the following amendments to the Official Whatcom County Zoning Ordinance (Title 20):
 - a. Amending the Density Credits Chapter;
 - b. Amending the Urban Residential 4 dwellings/acre (UR4) zone in the Birch Bay UGA to allow increased density if density credits are purchased;
 - c. Amending the minimum lot size, width, depth and other requirements in the Urban Residential zone; and
 - d. Amending the accessory dwelling unit regulations to allow larger unit size if density credits are purchased.
2. A Determination of Non-Significance was issued by the SEPA Responsible Official on May 28, 2021.
3. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on June 25, 2021.
4. Notice of the Planning Commission hearing for the subject amendments was posted on the County website on June 25, 2021.

5. Notice of the Planning Commission hearing was sent to the County's e-mail list on June 25, 2021.
6. The Planning Commission held a public hearing on the subject amendments on July 8, 2021.
7. In order to approve an amendment to the development regulations, the County must find that the amendment is consistent with the comprehensive plan (WCC 22.10.060(2)).
8. The Whatcom County Council adopted Policy 2A-14 in the Comprehensive Plan in the 2016 update which included convening a multi-stakeholder work group, including the Cities, to examine a variety of transfer of development right (TDR) and purchase of development right (PDR) issues.
9. The County Executive appointed the Whatcom County TDR/PDR Multi-Stakeholder Work Group in February 2017.
10. The *Whatcom County TDR/PDR Multi-Stakeholder Work Group Final Report* was issued on October 3, 2018. This report included a number of recommendations, including expanding the density credit program to the UR4 zone in Birch Bay Urban Growth Area and accessory dwelling units.

Urban Growth

11. The Growth Management Act states "Each county . . . shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. . ." (RCW 36.70A.110(1)).
12. The Growth Management Act states "A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights" (RCW 36.70A.090). The Whatcom County Comprehensive Plan is in the process of being amended to include density credit language.
13. Density credits allow development incentives, such as increased density or more floor area, in exchange for a voluntary contribution towards preserving resource lands and open space. This is accomplished through a voluntary payment of funds to the County for use in the Whatcom County Conservation Easement Program (WCC 3.25A), which was formerly known as the Purchase of Development Rights Program, in order to access incentives specifically set forth in the zoning code.
14. The *Whatcom County TDR/PDR Multi-Stakeholder Work Group Final Report* (October 3, 2018) indicated:

. . . In November 2017, the County Council adopted a density credit program for the Resort Commercial zone in the Birch Bay UGA and should consider expanding this program to other areas in the UGA. Specifically, the lower density Urban Residential four dwellings/acre . . . zones in the Birch Bay UGA should be considered for increased density through the proposed density credit program. . . (p. 33).

15. The subject amendments include density bonus provisions in the UR4 zone within the Birch Bay urban growth area (UGA) if density credits are purchased.
16. The subject amendments also modify the minimum lot size, width, depth and other requirements in the Urban Residential zone
17. Whatcom County Comprehensive Plan policies relating to urban growth include:
 - Policy 2A-1: Concentrate urban levels of development within designated urban growth areas.
 - Policy 3C-6: In UGAs, consider easing lot consolidation criteria, increasing density, and decreasing minimum lot sizes, in the interest of serving housing affordability.
 - Policy 3G-4: Allow development of smaller lots and creative options.
18. The State Department of Commerce *Housing Memorandum: Issues Affecting Housing Availability and Affordability* (June 2019) identifies "Reasonable Measures as Tools for Increasing Housing Availability and Affordability" including:
 - Allow or require small lots (5,000 square feet or less) for single-family neighborhoods within UGAs. Small lots limit sprawl, contribute to the more efficient use of land, and promote densities that can support transit. Small lots also provide expanded housing ownership opportunities to broader income ranges and provide additional variety to available housing types (p. 116).
19. The subject amendments further the goals and policies of the Whatcom County Comprehensive Plan by concentrating urban levels of growth in UGAs, allowing increased density, allowing smaller lots, and providing creative options for developers in a UGA.

Accessory Dwelling Units (ADU)

20. Accessory dwelling units are allowed in a number of zoning districts, both within UGAs and outside UGAs.

21. The *Whatcom County TDR/PDR Multi-Stakeholder Work Group Final Report* (October 3, 2018) recommended accessory dwelling unit incentives if density credits are acquired. Specifically, the Final Report stated:

. . . Accessory dwelling units are currently limited to 1,248 square feet. . . The TDR/PDR Work Group recommends increasing the size limit by 500 square feet to a maximum of 1,748 square feet if density credits are purchased. It is recommended that the price should be \$8/square foot up to the 500 square foot maximum. The Work Group recommends that this rural incentive should be available anywhere that accessory dwelling units are allowed in the County. . . (p. 34).

22. Whatcom County Comprehensive Plan goals and policies relating to development in rural and agricultural areas include:

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.

Goal 8A: Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber.

Policy 8A-2: Maintain a working agricultural land base sufficient to support a viable local agricultural industry by considering the impacts to farmers and agricultural lands as part of the legislative decision making process. Measures that can be taken to support working farms and maintain the agricultural land base should include:

. . . Maintaining a Purchase of Development Rights (PDR) program that facilitates the removal of development rights from productive farmland and provides permanent protection of those agricultural lands through the use of conservation easements or other legal mechanisms. . .

23. The Whatcom County Comprehensive Plan seeks to retain rural character and conserve agricultural lands. These goals and policies are primarily implemented through the Whatcom County Zoning Code, which restricts the uses and densities allowed in rural and agricultural areas. However, the County also adopted the Whatcom County Conservation Easement Program (WCC 3.25A). The purpose of this program is:

To establish a voluntary agricultural, forestry, and ecological conservation easement program for Whatcom County which will enhance the protection of the county's farmland, forestland, and important ecosystem areas, enhance the long-term viability of the agricultural and forestry enterprises within the county and provide public benefit by retaining properties in permanent resource use, in addition to the protection of ecosystem functions and values (WCC 3.25A.020).

24. The rural zones already allow accessory dwelling units and the subject amendments allow increased size of these units. However, the subject amendments compensate for this increased size by requiring a contribution to the Whatcom County Conservation Easement Program.
25. The subject amendments further the goals and policies of the Whatcom County Comprehensive Plan by providing developer incentives to voluntarily contribute funds that would be utilized in the Whatcom County Conservation Easement Program, thereby preserving rural character and agricultural lands.

Incentives

26. Whatcom County Comprehensive Plan policies relating to incentives include:

Policy 2F-3: Revise regulations to include incentive programs.

Policy 2F-4: Review and adopt, where appropriate, incentive programs such as cluster density bonuses in urban growth areas, purchase of development rights, transfer of development rights, and tax deferrals.

Policy 2UU-4: Support the retention of open space and open space corridors through the use of education and incentives, such as purchase or transfer of development rights, density bonuses within UGAs, cluster development, and acquisition of easements.

Policy 2UU-5: Augment land use regulations by engaging in a proactive program of public investment, landowner incentives, and other actions aimed at preserving open space.

27. The subject amendments provide density bonus provisions, which are entirely optional. A land owner may choose to develop property as currently allowed by the zoning code. Alternatively, a land owner may choose to utilize the density bonus provisions by purchasing density credits.
28. The subject amendments further the goals and policies of the Whatcom County Comprehensive Plan by providing a voluntary incentive that would allow increased density in the Birch Bay UGA and flexibility in the accessory dwelling unit provisions while contributing to preservation of rural and agricultural lands.

CONCLUSION

The subject zoning amendments are consistent with the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Density Credits Chapter (WCC 20.91) are hereby adopted as shown on Exhibit A.

Section 2. Amendments to the Urban Residential District Chapter (WCC 20.20) are hereby adopted as shown on Exhibit B.

Section 3. Amendments to the accessory dwelling unit regulations (WCC 20) are hereby adopted as shown on Exhibit C.

Section 4. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this _____ day of _____, 2021.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chairperson

APPROVED as to form:

() Approved () Denied

/s/ Royce Buckingham

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Exhibit A

Whatcom County Zoning Code Amendments

Density Credits Chapter

Amend the Density Credits Chapter (WCC 20.91) as follows:

Chapter 20.91

DENSITY CREDITS

Sections:

20.91.010 Purpose.

20.91.020 Developer incentives.

20.91.030 Density credit price and timing.

20.91.010 Purpose.

The overall purposes of this chapter are to incentivize increased land use intensity in urban growth areas, allow greater flexibility for accessory dwelling units, and decrease residential density in agricultural, forestry, and rural areas by authorizing density credits. Density credits allow increased density or flexibility in zoning regulations in exchange for a voluntary contribution towards preserving agricultural lands and open space. This is accomplished through a voluntary payment of funds to Whatcom County for use in the ~~agricultural purchase of development rights program~~ Whatcom County Conservation Easement Program (Chapter 3.25A WCC) in order to allow a higher density or greater flexibility as specifically set forth in the Whatcom County Zoning Code. (Ord. 2017-062 § 3 Exh. C).

Rationale: The subject proposal would, among other things, allow an increase in size of the accessory dwellings if density credits are purchased. This should be acknowledged in the Density Credits chapter purpose statement.

Additionally, WCC 3.25A has been expanded to include forestry and ecologically valuable lands and renamed as the “Whatcom County Conservation Easement Program” (Ordinances 2018-065 and 2021-037).

20.91.020 Developer incentives.

Density credits may be used to gain the following benefits:

- (1) Resort Commercial Zone in the Birch Bay Urban Growth Area. Each density credit purchased allows one additional single-family residential dwelling in the Resort Commercial zone up to the limit on total dwelling units set by WCC 20.85.108.
- (2) Urban Residential Zone in the Birch Bay Urban Growth Area. Each density credit purchased allows one additional dwelling in the UR4 zone up to the maximum gross density limit on total dwelling units set by WCC 20.20.252.
- (3) Accessory Dwelling Units. Each density credit purchased allows increased accessory dwelling unit size as set forth in the accessory dwelling unit regulations of the applicable zoning district. (Ord. 2017-062 § 3 Exh. C).

Rationale: The subject proposal would allow an increase in density in the Urban Residential zone in the Birch Bay UGA and an increase in size of accessory dwellings, if density credits are purchased.

20.91.030 Density credit price and timing.

The price per density credit is set by the county council in the Unified Fee Schedule.

- (1) Planned Unit Developments. If a developer using density credits is granted initial PUD approval pursuant to WCC 22.05.120, the required number of density credits shall be purchased from Whatcom County prior to final PUD approval under WCC 20.85.365.
- (2) Subdivisions. If a developer using density credits is granted preliminary long subdivision approval pursuant to WCC 21.05, the required number of density credits shall be purchased from Whatcom County prior to final long subdivision approval under WCC 21.06.
- (3) Short Subdivisions. If a developer using density credits is granted preliminary short subdivision approval pursuant to WCC 21.04.034, the required number of density credits shall be purchased from Whatcom County prior to final short subdivision approval under WCC 21.04.035.
- (4) Accessory Dwelling Units. The required density credits for increasing the size of an accessory dwelling unit shall be purchased from Whatcom County prior to issuance of the building permit. (Ord. 2017-062 § 3 Exh. C).

Rationale: The existing density credit rules allow an increase in density from 7 to 14 units per acre in the Resort Commercial Zone in the Birch Bay UGA through the planned unit development (PUD) process, which allows flexibility in zoning standards. The subject proposal would allow an increase in density in the Urban Residential zone in the Birch Bay UGA from 4 to 5 units/acre through the standard land division process without the need for a PUD. The fee would be paid at the final plat stage, which actually creates the lots. Accessory dwelling units require an administrative approval use permit, but the density credit fee could be paid at the building permit stage.

Exhibit B Whatcom County Zoning Code Amendments

Urban Residential (UR) District

Amend the Urban Residential District text (WCC 20.20) as follows:

20.20.050 Permitted Uses

.052 Single-family attached dwellings; provided, that public sewer, water and, ~~where identified by the appropriate subarea Comprehensive Plan policies,~~ stormwater ~~management~~ collection and detention facilities serve the site, not more than four units are attached, and the number of dwelling units conforms to the density requirements of the district.

20.20.251 Minimum lot size.

For the purpose of creating new building lots within the Urban Residential District, several land use densities are herein provided. The minimum lot size requirements for new construction vary according to the method of subdivision, as well as whether or not public sewer, water, and, where required by regulation, stormwater ~~management~~ collection and detention facilities serve the project site. Where the lot cluster land division method is used, the minimum lot size is based on consideration of the zoning district's setback requirements and the Whatcom County health code regulations for sewage systems and drinking water, but shall not be less than that shown below. Where a maximum lot size is imposed, clustered lots shall be as small as allowed by the health department. (Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2007-048 § 2 Exh. B, 2007).

20.20.252 Maximum density, minimum lot size and maximum lot size.

District	Maximum Gross Density	Minimum Lot Size		Maximum Lot Size	Min. Reserve Area (Cluster Subdivisions)
		Conventional	Cluster	Cluster Lots	
UR: all densities without public sewer and water**	Maximum gross density: 1 dwelling unit/10 acres	N/A*	8,000 sq. ft.	22,000 sq. ft.	80%
UR: in Lake Whatcom Watershed with public sewer and water, and stormwater <u>management collection and detention</u> facilities	Maximum density: 1 dwelling unit/5 acres	5 acres	N/A	N/A	N/A
UR: all densities with public sewer or water**	Maximum gross density: 1 dwelling unit/10 acres	N/A*	8,000 sq. ft.	22,000 sq. ft.	80%
UR-3: with public sewer and water, and stormwater <u>management collection and detention</u> facilities	Maximum gross density: 3 dwelling units/1 acre	12,000 sq. ft.	8,000 sq. ft.	N/A	25%
UR-4: with public sewer and water, and stormwater <u>management collection and detention</u> facilities	Maximum gross density: 4 dwelling units/1 acre Minimum net density: 4 dwelling units/1 acre**	<u>5,000 sq. ft.</u> 8,000 sq. ft.	<u>4,000 sq. ft.</u> 6,000 sq. ft.	N/A	20%
<u>UR4: in the Birch Bay Urban Growth Area with public sewer and water, and stormwater management facilities, when density credits are purchased pursuant to WCC 20.91.020(2)</u>	<u>Maximum gross density: 5 dwelling units/1 acre</u> <u>Minimum net density: 5 dwelling units/1 acre**</u>	<u>4,500 sq. ft.</u>	<u>3,500 sq. ft.</u>	<u>N/A</u>	<u>20%</u>

District	Maximum Gross Density	Minimum Lot Size		Maximum Lot Size	Min. Reserve Area (Cluster Subdivisions)
		Conventional	Cluster	Cluster Lots	
UR-6: with public sewer and water, and stormwater management-collection-and-detention facilities	Maximum gross density: 6 dwelling units/1 acre Minimum net density: 6 dwelling units/1 acre**	4,000 sq. ft. 5,500 sq. ft.	3,000 sq. ft. 4,000 sq. ft.	N/A	20%

* For the purpose of administering the lot consolidation provisions of WCC [20.83.070](#), the conventional minimum lot size shall be 10 acres.

** Minimum density shall be calculated as net density, after deducting the areas restricted from development by critical area regulations and infrastructure requirements. (Ord. 2016-011 § 1 (Exh. Q), 2016; Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2009-024 § 1 (Exh. A), 2009; Ord. 2008-036 Exh. A, 2008; Ord. 2007-050 § 1 Exh. A, 2007; Ord. 2007-048 § 2 Exh. B, 2007).

Rationale:

- UR: all densities without public sewer and water – Delete double asterisk because there are no minimum densities for development in this zone when public water and sewer are not available.
- “Stormwater management” facilities – is more current terminology (e.g. the Zoning Code references the “*Washington State Department of Ecology Stormwater Management Manual for Western Washington*”).
- UR: all densities with public sewer or water – Having only public sewer or water is the same as being without public sewer and water, which is already addressed in the table. Therefore, this text is redundant and should be deleted.
- UR4 Zone – The State Department of Commerce’s *Housing Memorandum: Issues Affecting Housing Availability and Affordability* (June 2019) identified the following as one of the Reasonable Measures as Tools for Increasing Housing Availability and Affordability: “Allow or require small lots (5,000 square feet or less) for single-family neighborhoods within UGAs. Small lots limit sprawl, contribute to the more efficient use of land, and promote densities that can support transit. Small lots also provide expanded housing ownership opportunities to broader income ranges and provide additional variety to available housing types” (p. 116). The proposed amendment would reduce the minimum lot size in the UR4 zone, when density credits are not used, to 5,000 square feet (4,000 square feet if clustered).
- UR4 in the Birch Bay UGA – Allow 5 dwellings/acre in UR4 zones in the Birch Bay Urban Growth Area, if density credits are purchased. Establish minimum lot size and minimum reserve area for this new density category in the Urban Residential Zone.
- UR-6 zone – The UR-6 zone only exists in the Bellingham UGA. Bellingham typically does not extend public water and sewer, so the density is one dwelling/10 acres. However, if the city ever made an exception and extended water and sewer, it would be reasonable to allow smaller lots size in order to densify the UGA (e.g. if a developer had difficulty achieving full buildout on a site because of wetlands).

~~20.20.253 Minimum lot size outside an urban growth area.~~

~~Reserved by Ord. 2011-013. (Ord. 2007-048 § 2 Exh. B, 2007; Ord. 2005-041 § 1 Exh. A, 2005; Ord. 98-083 Exh. A § 11, 1998; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 82-58, 1982. Formerly 20.20.251).~~

~~20.20.254 Maximum density and minimum lot size outside an urban growth area.~~

~~Reserved by Ord. 2011-013. (Ord. 2007-048 § 2 Exh. B, 2007; Ord. 2005-041 § 1 Exh. A, 2005; Ord. 98-083 Exh. A § 12, 1998; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 84-38, 1984; Ord. 82-58, 1982. Formerly 20.20.252).~~

Rationale:

The above code language was deleted in 2011 (Ordinance 2011-013). Keeping historical references, which no longer apply, clutters up the code. A person can look at old ordinance in order to obtain historical information.

20.20.255 Minimum lot width and depth.

District	Width at Street Line		Width at Bldg. Line	Minimum Mean Depth
	Conventional	Cluster		
UR: all districts without public sewer and water	300'	70'*	80'	100'
UR: with public sewer and water, and stormwater management collection and detention facilities:				
3 units per acre	30'	30'	70'	80'
4 units per acre	30'	30'	60'	70'
<u>5 units per acre (with purchase of density credits)</u>	<u>25'</u>	<u>25'</u>	<u>40'</u>	<u>60'</u>
<u>6 units per acre</u>	<u>25'</u>	<u>25'</u>	<u>40'</u>	<u>50'</u>
*30' on a cul-de-sac only				

(Ord. 2016-011 § 1 (Exh. Q), 2016; Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2007-048 § 2 Exh. B, 2007; Ord. 98-083 Exh. A § 13, 1998; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 84-38, 1984; Ord. 82-58, 1982. Formerly 20.20.253).

Rationale:

- 5 units per acre – Establish width at street line, width at building line, and minimum mean depth for this new density classification (that may be used if density credits are obtained).
- 6 units per acre – Establish width at street line, width at building line, and minimum mean depth for this existing density classification. It appears that it may have been an oversight to leave these requirements out of the code.

20.20.305 Lot clustering.

(1) The purpose of lot clustering is to provide an alternative method of creating economical building lots with spatially efficient sizes. Clustering is intended to reduce development cost, increase energy efficiency and reserve areas of land which are suitable for agriculture, forestry, open space or possible future development.

(2) The clustering option is also intended to help preserve open space and the character of areas and reduce total impervious surface area thereby reducing runoff while assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, preservation of wetlands, preservation of aesthetic values including view corridors, and preservation of potential trail and recreation areas.

(3) Lot clustering is required for residential land divisions when:

~~(a) The property is located within a short term planning area and~~ public water and sewer are not available; ~~or~~

~~(b) The property is located within a long term planning area.~~ (Ord. 2007-048 § 2 Exh. B, 2007; Ord. 2005-041 § 1 Exh. A, 2005; Ord. 90-45, 1990).

Rationale:

Short term and long term planning areas were zoning designations used in the past to distinguish between parts of the UGA that could be developed at urban densities and/or annexed in the immediate future and other parts of the UGA where urban development was anticipated later in the planning period. However, short term and long term planning area designations were deleted in 2016 UGA (see Ordinances 2016-034 and 2016-035).

Requiring clustering in a UGA developed at a density of one dwelling/ten acres (because it does not yet have public water and sewer) would allow the reserve tract to be developed more efficiently at urban densities later on when public water and sewer become available.

20.20.310 Design standards.

The creation of new building lots, pursuant to this section, shall be governed by the following design standards:

(1) Clustered building lots may be created only through the subdivision or short subdivision process.

(2) Building lots should be designed and located to the fullest extent possible to be compatible with valuable or unique natural features, as well as physical constraints of the site.

(3) ~~Within short-term planning areas w~~Where public water and sewer are not available ~~and within long-term planning areas~~, all clustered building lots shall be grouped together in a single cluster. In all other cases, where practical, the majority of building sites should be arranged in a cluster or concentrated pattern to be compatible with physical site features, allow for the efficient conversion of the reserve tract to other uses in the future, and have no more than two common encroachments on existing county roads. The arrangement of clustered building lots is intended to discourage development forms commonly known as linear, straight-line or highway strip patterns.

(4) Common access to clustered building lots should be provided by short length roads or loop roads. In addition, interior streets shall be designed to allow access to the reserve tract for the purpose of future approved development. (Ord. 2007-048 § 2 Exh. B, 2007; Ord. 90-45, 1990; Ord. 87-12, 1987; Ord. 87-11, 1987).

Exhibit C Whatcom County Zoning Code Amendments

Urban Residential (UR) District

Amend the UR District (WCC 20.20) as follows:

20.20.130 Administrative approval uses.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following approval requirements are met:

- (1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;
- (2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;
- (3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;
- (4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;
- (5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;
- (6) ~~In no case shall~~ The maximum size of an accessory apartment or detached dwelling unit shall not exceed ~~be larger than~~ 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;

Rationale: *The Whatcom County TDR/PDR Multi-Stakeholder Work Group Final Report* (October 3, 2018) states:

. . .The Whatcom County Zoning Code currently allows accessory dwelling units, subject to a variety of conditions, in the following zones:

- Urban Residential (WCC 20.20.132);
- Urban Residential Medium Density (WCC 20.22.132);
- Urban Residential Mixed (WCC 20.24.133);
- Residential Rural (WCC 20.32.132);
- Rural Residential – Island, which is applicable to Lummi Island (WCC 20.34.132);
- Rural (WCC 20.36.132);
- Point Roberts Transitional District (WCC 20.37.132);
- Small Town Commercial (WCC 20.61.153); and
- Resort Commercial (WCC 20.64.132).

. . . Accessory dwelling units are currently limited to 1,248 square feet in these zoning districts. The TDR/PDR Work Group recommends increasing the size limit by 500 square feet to a maximum of 1,748 square feet if density credits are purchased. It is recommended that the price should be \$8/square foot up to the 500 square foot maximum. . . (p. 34)

The County Council considered the recommendations of the Work Group and docketed this amendment for further review (Resolutions 2019-015 and 2021-007).

(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:

- (a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;
- (b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;
- (c) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

~~(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres;~~

Rationale: There are no Urban Residential zones located outside of urban growth areas anymore.
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~~(1011)~~ Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:

(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and

(b) All of the above approval requirements shall be met for so long as the accessory unit remains;

~~(1112)~~ Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;

~~(1213)~~ All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

Urban Residential Medium Density (URM) District

Amend the URM District (WCC 20.22) as follows:

20.22.130 Administrative approval uses.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following approval requirements are met:

- (1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;
- (2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;
- (3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;
- (4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;
- (5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;
- (6) ~~In no case shall~~The maximum size of an accessory apartment or detached dwelling unit shall not exceed~~be larger than~~ 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;
- (7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:
 - (a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;
 - (b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;
 - (c) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

~~(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres;~~

Rationale for Change: There are no Urban Residential Medium density zones located outside of UGAs.

~~(11) Accessory apartments and detached accessory dwelling units to single family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:~~

~~(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and~~

~~(b) All of the above approval requirements shall be met for so long as the accessory unit remains;~~

Rationale for Change: There are no Urban Residential Medium density zones located in the Lake Whatcom Watershed.

~~(1012)~~ Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter [20.80](#) WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;

~~(1113)~~ All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

Urban Residential Mixed (UR-MX) District

Amend the UR-MX District (WCC 20.24) as follows:

20.24.130 Administrative approval uses.

.133 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following approval requirements are met:

- (1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;
- (2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;
- (3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;
- (4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;
- (5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;
- (6) ~~In no case shall~~ The maximum size of an accessory apartment or detached dwelling unit shall not exceed be larger than 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;
- (7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:
 - (a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;
 - (b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;
 - (c) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

(10) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:

(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and

(b) All of the above approval requirements shall be met for so long as the accessory unit remains;

(11) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter [20.80](#) WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;

(12) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

Residential Rural (RR) District

Amend the RR District (WCC 20.32) as follows:

20.32.130 Administrative approval uses.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following approval requirements are met:

- (1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;
- (2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;
- (3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;
- (4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;
- (5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;
- (6) ~~In no case shall~~ The maximum size of an accessory apartment or detached dwelling unit shall not exceed be larger than 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;
- (7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:
 - (a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;
 - (b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;
 - (c) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;

(11) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:

(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and

(b) All of the above approval requirements shall be met for so long as the accessory unit remains;

(12) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter [20.80](#) WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;

(13) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

Rural Residential-Island (RR-I) District

Amend the RR-I District (WCC 20.34) as follows:

20.34.130 Administrative approval uses.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following requirements are met:

- (1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;
- (2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;
- (3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;
- (4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;
- (5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;
- (6) ~~In no case shall~~ The maximum size of an accessory apartment or detached dwelling unit shall not exceed be larger than 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;
- (7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:
 - (a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;
 - (b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;
 - (c) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

(10) ~~Outside of an urban growth area, t~~The minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;

Rationale for Change: There are no urban growth areas on Lummi Island.
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(11) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed on Lummi Island, only under the following circumstances:

(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and

(b) All of the above approval requirements shall be met for so long as the accessory unit remains;

(12) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter [20.80](#) WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;

(13) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

Rural (R) District

Amend the R District (WCC 20.36) as follows:

20.36.130 Administrative approval uses.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following requirements are met:

- (1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;
- (2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;
- (3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;
- (4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;
- (5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;
- (6) ~~In no case shall~~ The maximum size of an accessory apartment or detached dwelling unit shall not exceed be larger than 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;
- (7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:
 - (a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;
 - (b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;
 - (c) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;

(11) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:

(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and

(b) All of the above approval requirements shall be met for so long as the accessory unit remains;

(12) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter [20.80](#) WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;

(13) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

Point Roberts Transitional (TZ) District

Amend the TZ District (WCC 20.37) as follows:

20.37.130 Administrative approval uses.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following requirements are met:

- (1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;
- (2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;
- (3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;
- (4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;
- (5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;
- (6) ~~In no case~~ The maximum size of shall an accessory apartment or detached dwelling unit shall not exceed be larger than 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;
- (7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:
 - (a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;
 - (b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;
 - (c) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

(10) The minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;

(11) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter [20.80](#) WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;

(12) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

Small Town Commercial (STC) District

Amend the STC District (WCC 20.61) as follows:

20.61.150 Administrative approval uses.

.153 Residential type uses.

(1) Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following requirements are met:

(a) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;

(b) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;

(c) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;

(d) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;

(e) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;

(f) ~~In no case shall~~ The maximum size of an accessory apartment or detached dwelling unit shall not exceed ~~be larger than~~ 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;

(g) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:

(i) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;

(ii) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;

(iii) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(h) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(i) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(i) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(ii) One of the dwellings must be the primary domicile of the owner. (Ord. 2016-043 § 1 Exh. A, 2016; Ord. 2012-032 § 2 Exh. B, 2012; Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2010-016 § 1 (Exh. A), 2010; Ord. 99-012 § 1(2), 1999).

Resort Commercial (RC) District

Amend the RC District (WCC 20.64) as follows:

20.64.130 Administrative approval uses.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following requirements are met:

- (1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;
- (2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;
- (3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;
- (4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;
- (5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;
- (6) ~~In no case shall~~ The maximum size of an accessory apartment or detached dwelling unit shall not exceed~~be larger than~~ 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;
- (7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:
 - (a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;
 - (b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;
 - (c) All reserve tracts within long plats and short plats created by the cluster subdivision method;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;

~~(11) Accessory apartments and detached accessory dwelling units to single family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:~~

~~(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and~~

~~(b) All of the above approval requirements shall be met for so long as the accessory unit remains;~~

Rationale for Change: There are no Resort Commercial zones located in the Lake Whatcom Watershed.

~~(1112)~~ Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter [20.80](#) WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;

~~(1213)~~ All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC). (Ord. 2016-043 § 1 Exh. A, 2016; Ord. 2012-032 § 2 Exh. B, 2012; Ord. 2010-016 § 1 (Exh. A), 2010; Ord. 2006-061 § 1 (Att. A)(7), 2006; Ord. 98-018 § 1, 1998; Ord. 95-031, 1995; Ord. 87-12, 1987; Ord. 87-11, 1987).