

ORDINANCE NO. 2025-05-008

AN ORDINANCE OF THE CITY OF BELLINGHAM, WA, RELATING TO LAND USE AND ZONING, ADOPTING AN INTERIM ZONING ORDINANCE, APPLYING BELLINGHAM MUNICIPAL CODE (BMC) 20.28 INFILL HOUSING IN ALL AREAS THAT ARE ZONED PREDOMINANTLY FOR RESIDENTIAL USE, EXCEPT ON PROPERTY REGULATED BY BMC CHAPTER 16.80, LAKE WHATCOM RESERVOIR REGULATORY PROVISIONS, TO STIMULATE THE CONSTRUCTION OF MIDDLE HOUSING.

WHEREAS, this interim Ordinance is in direct response to Mayor Kim Lund's Executive Order [#2024-02 Expanding Housing Options in Bellingham](#) issued on 11/21/2024. The executive order included a comprehensive list of findings that summarize the circumstances leading to the current acute shortage of housing in Bellingham, including affordable housing, and calls for legislative actions for City Council consideration of the following:

- A. Immediately draft an interim ordinance for City Council consideration to remove parking minimums citywide while following best practices for ADA parking, access requirements, electric vehicle charging and other key factors.
- B. Immediately draft an interim ordinance for City Council consideration, ahead of state mandates, supporting increased middle housing through the adoption of the Infill Toolkit citywide.
- C. Draft an interim ordinance for City Council consideration, ahead of state mandates, streamlining design review; and

WHEREAS, on January 13, 2025, City Council took action on the first Executive Order action item by adopting Ordinance No. [2025-01-001](#), an interim ordinance which temporarily eliminates minimum automobile parking requirements and establishes citywide bicycle parking standards. The ordinance, which will remain in effect until January 28, 2026, unless extended, makes the provision of automobile parking optional for all uses citywide and is intended to facilitate increased development of housing, including middle housing; and

WHEREAS, in 2023, the Washington State Legislature passed legislation (ESHB [1110](#)), codified in RCW [36.70A.635](#), to increase the availability of "middle housing," defined as housing types that fall between single-family homes and large apartment complexes, generally including duplexes, triplexes, fourplexes, townhomes, cottages and courtyard housing that are of compatible scale, form and character of single-family homes; and

WHEREAS, residential zoning and development regulations have prioritized the construction of detached single-family homes and discouraged the development of middle housing forms; and

WHEREAS, approximately 75 percent of land zoned as residential in Bellingham is currently developed with detached single-family housing; and

WHEREAS, this new state legislation requires Bellingham to allow a variety of middle housing types with up to four units per lot, and up to six units per lot, if at least two of the housing units are affordable; and

WHEREAS, if Bellingham does not adopt permanent regulations that conform to the middle housing legislation within six months of adopting the periodic update to the Comprehensive Plan in 2026, local regulations in conflict will be superseded, preempted and invalidated by state law; and

WHEREAS, this interim zoning ordinance, and the anticipated permanent changes required by State law, will increase density in all areas that are zoned predominantly for residential use; and

WHEREAS, middle housing can be less expensive to build than single-family housing by increasing the development potential of any given property; and

WHEREAS, City Council finds that this interim zoning ordinance and the housing it will allow are compatible with the City's residential neighborhoods and is consistent with the City's Comprehensive Plan which envisions a variety of housing types in the City's residential neighborhoods; and

WHEREAS, interim zoning controls enacted under RCW [35.63.200](#) and/or RCW [36.70A.390](#) are methods by which a local government may establish temporary zoning controls while it develops more permanent zoning controls; and

WHEREAS, RCW 36.70A.390 provides that, "A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held, and findings of fact are made prior to each renewal"; and

WHEREAS, on February 24, 2025, the City Council held a study session on middle housing in anticipation of staff bringing forward an interim ordinance on March 24, 2025, that would implement Bellingham's Infill Housing Toolkit (Chapter 20.28 BMC) on a citywide basis; and

WHEREAS, on March 10, 2025, the City of Bellingham as Lead Agency under the procedures of the State Environmental Policy Act issued a Determination of Non-Significance (DNS) on the proposed ordinance, which is a non-project proposal; and

WHEREAS, adopting interim zoning will immediately and substantially increase the potential for the permitting and development of middle housing across the city and provide the City time to study the impact of the interim regulations on the development of middle housing while the City engages in a Type VI legislative process to amend the zoning and land use regulations to be consistent with RCW [36.70A.635](#); and

WHEREAS, the Bellingham City Council held a public hearing on the proposed amendments on March 24, 2025, with appropriate public notice provided; and

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The City Council Adopts the above “WHEREAS” recitals as findings of fact in support of its action, as required by RCW 35.63.200 and RCW 36.70A.390.

Section 2. Interim Zoning Ordinance Adopted. An interim zoning ordinance is adopted as specified in Section 9 of this Ordinance.

Section 3. Duration of Interim Zoning. This interim zoning shall be in effect for twelve (12) months, beginning on June 3, 2025, and ending on June 2, 2026, unless extended, or an Ordinance is adopted amending the Bellingham Municipal Code and rescinding the interim zoning before June 2, 2026.

Section 4. Work Plan. During the interim zoning period, City staff will engage in the following work plan. Staff will continue to study issues concerning the implementation of infill housing, including a review of new housing development under these interim regulations. Staff will evaluate whether the interim regulations increase housing production or if additional changes to zoning, development regulations, and permitting processes are necessary. Finally, staff will begin drafting the necessary revisions to the City’s codes and regulations under a Type VI legislative process, as required, to fully implement the middle housing requirements of RCW [36.70A.635](#) before the State imposed deadline of June 2026.

Section 5. Public Hearing. Pursuant to RCW [35.63.200](#) and [36.70A.390](#), the City Council will hold a public hearing on this interim zoning ordinance on March 24, 2025.

Section 6. Conflict with other BMC Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Bellingham Municipal Code, this Ordinance shall control.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 8. Effective Date. This Ordinance shall take effect and be in full force 15 days after the date of final passage.

Section 9. Interim Zoning. The Council adopts the following interim zoning to stimulate the development of middle housing in all areas of the city zoned predominantly for residential use:

- A. Purpose. The purpose of this Interim Zoning Ordinance (Ordinance) is to increase densities in all areas of the City zoned predominantly for residential use, as required by RCW [36.70A.635](#), to permit the development and construction of middle housing, including affordable housing units, to mitigate Bellingham’s housing shortage.
- B. Applicability.

1. The provisions of this Ordinance shall apply to all lots zoned residential single, residential multi, and urban village residential transition, with the following exceptions where it is not applicable:
 - a. On property regulated by Chapter [16.80](#) BMC, Lake Whatcom Reservoir Regulatory Provisions.
 - b. Specific uses and development may be restricted per Chapter [16.55](#) BMC, Critical Areas and Title [22](#) BMC, Shoreline Master Program.
2. No part of the provisions herein shall be construed to limit or restrict the provision of infill housing under BMC 20.28 where it is currently allowed as of May 19, 2025.

C. Applicable Terms.

1. Pursuant to BMC [20.08.020](#), and for purposes of this Interim Ordinance, "Lot" means the consolidation of all adjacent and contiguous lot(s) of record held under common ownership as of April 27, 1982, of at least sufficient size to meet minimum requirements for development of an allowed use pursuant to the applicable regulations of the applicable zoning. Lot includes plot, parcel, tract or site.
2. Pursuant to BMC [20.08.020](#), and for purposes of this Interim Ordinance, "Lot of record" means a parcel of land officially approved by the city of Bellingham or Whatcom County through the subdivision process or a parcel of land established by a recorded deed with the county auditor prior to September 10, 1964.

D. Uses Permitted Outright. The following uses are permitted outright in addition to all other uses permitted by the underlying zoning:

1. All Infill Housing forms pursuant to BMC [20.28](#) including small lot, cottage housing, duplexes, triplexes, fourplexes, townhouses, and courtyard developments.

E. Calculating Density.

1. **Maximum Number of Lots.** The maximum number of lots allowed on property in residential zones is determined in Chapter [20.00](#) BMC, Zoning Tables and Chapter [20.37](#) BMC, Urban Village.
2. **Maximum Infill Housing Density.** The maximum permitted Infill Housing density authorized on each lot determined in subsection (E)(1) is:
 - a. Four (4) units per lot, unless zoning permitting higher densities or intensities applies; or
 - b. Six (6) units per lot if the applicant commits to selling or renting at least two (2) units on the lot as affordable housing, unless zoning permitting higher densities or intensities applies. To qualify for additional units under the affordable housing provision, an applicant shall commit to renting or selling the required number of units as affordable housing and meeting the standards of subsections (1) through (5) below.
 - 1) Dwelling units that qualify as affordable housing shall have costs, including utilities other than telephone, that do not exceed 30 percent of the monthly income of a

household whose income does not exceed the following percentages of median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development:

- a) Rental housing: 60 percent.
 - b) Owner-occupied housing: 80 percent.
- 2) The units shall be maintained as affordable for a term of at least 50 years, and the property shall satisfy that commitment and all required affordability and income eligibility conditions.
 - 3) The applicant shall record a covenant or deed restriction that ensures the continuing rental or ownership of units subject to these affordability requirements consistent with the conditions in Chapter [84.14](#) RCW for a period of no less than 50 years.
 - 4) The covenant or deed restriction shall address criteria and policies to maintain public benefit if the property is converted to a use other than that which continues to provide for permanently affordable housing.
 - 5) The units dedicated as affordable housing shall:
 - a) Be provided in a range of sizes comparable to other units in the development.
 - b) The number of bedrooms in affordable units shall be in the same proportion as the number of bedrooms in units within the entire development.
 - c) Generally, be distributed throughout the development and have substantially the same functionality as the other units in the development.
 - c. Lots authorized in subsection (E)(1) and Infill Housing authorized in subsection (E)(2) may be consolidated to provide flexibility in site and building design.
 - d. When existing land to be developed with Infill Housing contains an existing residential building to be retained, the number of existing and converted units shall not count toward the maximum infill housing density in subsection (E)(2).
 - e. *Minimum Density.* Unless granted an exception to minimum density, development density in Residential Multi high, medium, and low zones shall develop to at least the densities established in BMC [20.32.040](#)(B)(2)(b).
- F. **Attached Housing.** In residential-single and residential multi-transition zones, a building shall be limited to no more than four (4) attached units inclusive of accessory dwelling units.
- G. **Maximum Floor Area Ratio (FAR).** Where FARs are referenced in Chapter 20.28 BMC, the stated ratio shall be replaced with the following and are based on the number of units developed on each lot.

Units on the lot	Maximum FAR
1	0.4
2	0.8
3	1.0
4	1.2
5	1.4
6 (1)	1.6

Notes:

1. When more than six (6) units will be developed on a lot as allowed by the underlying zoning, the maximum allowed FAR on the lot is 1.6.

H. Subdivision:

1. Development of Infill Housing under this Interim Ordinance does not require a cluster subdivision; cluster subdivision standards and processes are not applicable.
2. Infill housing units are not required to be on separate, fee simple lots. When infill housing units are proposed as part of a land division, the lots are not required to comply with development standards in Chapter [20.28](#) BMC or BMC Title [23](#) individually, as long as the parent site as a whole complies with Chapter [20.28](#) BMC, except as modified by this Ordinance.

I. Declarations and Governing Documents.

1. Homeowners' association governing documents, condominium declarations, common interest community declarations and governing documents, and association of apartment owners declarations, created after July 23, 2023, may not actively or effectively prohibit the construction, development, or use of additional housing units as required in RCW [36.70A.635](#).
2. Homeowners' association governing documents, condominium declarations, common interest community declarations and governing documents, and association of apartment owners declarations, created after July 23, 2023, and applicable to a property located within an urban growth area may not impose any restriction or prohibition on the construction, development, or use on a lot of an accessory dwelling unit that the city would be prohibited from imposing under RCW [36.70A.681](#).

J. Street improvements. All streets shall be improved to three-quarter standard across the full frontage of the land being developed under this ordinance prior to 1) issuance of either the first building permit for development of residential uses or 2) final land division approval. Modifications to the street standard may be approved by the planning and public works directors when:

- a. Practical difficulties arise in the design and construction of streets due to topographic or geological limitations or other problems inherent or peculiar to the area; or
- b. The directors find that imposition of the required street design would be detrimental to the interest of the neighborhood; or

c. The directors find that the modification will provide an equal or better solution that is consistent with the goals and policies in the Bellingham Comprehensive Plan.

K. **Parking.** Development approved under this interim Ordinance is subject to Ordinance No. [2025-01-001](#), an interim ordinance which temporarily eliminates minimum automobile parking requirements and establishes citywide bicycle parking standards.

PASSED by the Council this 19th day of May, 2025




Council President

APPROVED by me this 4th day of June, 2025



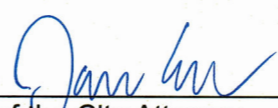
Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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