

STAFF MEMORANDUM

TO: Everett Planning Commission
FROM: Rebecca McCrary, Long Range Planning Manager
DATE: June 17, 2022
MEETING DATE: June 21, 2022
SUBJECT: Removing Limits on Number of Residents in Dwellings (SB 5235)

INTRODUCTION

The state legislature passed [Engrossed Substitute Senate Bill 5235](#) on April 14, 2021 and the Governor signed the legislation on May 13, 2021, codified in [RCW 35.21.682](#). The bill became effective on July 25, 2021. Staff evaluated the city's regulations and determined that amendments would be necessary to achieve consistency with the state law.

The planning commission received briefings on April 15 and May 17 including background and an overview of the city's policies, regulations, and recent state legislation affecting limits on number of residents in dwellings. Staff has continued to work on specific language and will provide a final briefing at the June 21 meeting on proposed code amendments in advance of an anticipated public hearing on July 19 and a planning commission recommendation to the city council.

See the [April 15 memo](#), [April 19 presentation](#) (slides 12-19), and [May 17 presentation](#) (slides 20-25) for information on the scope of the project, policy guidance, and recent changes to local regulations and state law. Note that the April memo addresses both homeless shelters and housing and the maximum number of residents of a dwelling, while from May forward staff have separated the two topics.

PROPOSED CODE AMENDMENTS

Staff proposes the following amendments to the city's development regulations to meet the requirements in [RCW 35.21.682](#) prohibiting a city from regulating or limiting the number of unrelated persons that may occupy a household or dwelling unit with exceptions for group living arrangements regulated under state law or "short-term rentals" and lawful limits on occupant load per square foot or generally applicable health and safety provisions. Additional amendments are proposed that relate to the occupancy limitation amendments. The city's regulation elements that are impacted by the new state law include terms using or related to "dwelling", "rooming house", "boarding house", "bed and breakfast house", and "short term rental" uses.

Definitions

Amendments to definitions in Chapter [19.04](#) (definition) include:

- Deleting the definition of "**Family**" in [EMC 19.04.020](#). The definition limits the number of unrelated persons living together inconsistent with the new state law. Staff have evaluated other provisions in city code that use the term "family" and has determined that they will not lose or change meaning as result of these amendments.
- Combining the definitions of "**Dwelling**" in [EMC 19.04.030](#) and "**Dwelling Unit**" in [EMC 19.04.50](#). The definitions are similar, overlap, and having two definitions introduces confusion.



The definition of “dwelling” is retained and amended to reflect the important elements necessary to describe a dwelling; the definition of “dwelling unit” is deleted.

- Removing the definition of “**Rooming House**” in EMC [19.04.050](#), which only existed to classify a dwelling with residents not meeting the “family” definition (meaning a limited number of residents). Health and safety provisions regarding the number of residents in a dwelling or other structure will continue to be addressed under the Residential, Building, and Fire Codes as specified in EMC [Title 16 Buildings and Construction](#).
- Removing the definition of “**Bed & Breakfast House**” in EMC [19.04.050](#) and folding the use into a revised definition of short-term rentals.
- Amending the definition of “**Short Term Rentals**” in EMC [19.04.050](#) and in EMC [19.08.150](#) address an effective limit on the number of residents of a dwelling (besides guests), to align with the definition of short term rental in state law (RCW [64.37.010](#)), and to capture bed and breakfast operations. RCW [35.21.682](#) specifically exempts short term rentals, as defined in RCW [64.37.010](#), from the state preemption on limiting occupants of a dwelling. The revised definition will cover operations using only a portion of the dwelling.

Specific strikethrough language is in Exhibit A.

Uses and residential use regulations

Amendments to the use tables include deleting bed and breakfast houses and rooming houses from the residential use table 5-1 in EMC [19.05.080](#) and residential use regulations of [19.08.130](#), and [19.08.140](#) consistent with RCW [35.21.682](#), and consistent with the deleted definitions addressed above.

Proposed amendments to short term rental use regulations in EMC [19.08.150](#) include removing a reference to bed and breakfast house and expanding the use to cover operations using only a portion of a dwelling unit.

Specific strikethrough language is in Exhibits B and C.

Parking

The proposed amendments (Exhibit D) to EMC [19.34.020](#) Table 34-1 include:

- Removing parking standards for bed and breakfast houses and rooming houses, consistent with the deleted definitions addressed above.
- Moving the minimum parking standard for short term rentals from EMC [19.08.150\(F\)](#) to the parking chapter (EMC [19.34.020](#)) and adding a minimum parking requirement for rental of rooms within a dwelling unit (one space per guest room).

Specific strikethrough language is in Exhibit D

REQUEST OF THE PLANNING COMMISSION

Review the information in this memo, prepare feedback, questions, and points of discussion for the planning commission’s meeting on June 21. Staff proposes scheduling a public hearing and commission recommendation on July 19.

EXHIBITS

Exhibit A	EMC 19.04 Definitions
Exhibit B	EMC 19.05 Table 5-1 Residential Use Table
Exhibit C	EMC 19.08 Residential Uses and Development Standards
Exhibit D	EMC 19.34.020 Required Off-Street Parking

EXHIBIT A – EMC 19.04 DEFINITIONS

EMC 19.04.020 General definitions.

“Family” means any number of persons related by blood, marriage or legal adoption and including foster children and exchange students living together as a single housekeeping unit. *“Family”* also means the following when living together as a single, not-for-profit housekeeping unit:

1. A group of not more than four related and unrelated adults and their related minor children, but not to exceed a total of eight related and unrelated persons; or
2. Not more than eight disabled persons, whether adults or minors, living together in a consensual residential living arrangement, but not to exceed a total of eight persons; or
3. State-licensed adult family homes as defined by RCW 70.128.010; or
4. State-licensed foster family homes and group care facilities as defined in RCW 74.15.020.

For the purposes of this definition, an adult is a person eighteen years of age or older, and a minor child is a person under the age of eighteen years old.

EMC 19.04.030 Lot, building, and structure definitions.

“ Dwelling ” means one or more habitable rooms which are designed to be occupied by one family or more persons with shared facilities for living, sleeping, cooking, eating, and sanitation, which meets the minimum requirements of EMC Title 16 Building and Construction the Everett Housing Code, and in which all habitable rooms are internally accessible from within the dwelling.

EMC 19.04.050 Use definitions, residential.

“ Bed and breakfast house ” means an owner-occupied dwelling which is used to provide overnight guest lodging in not more than five guest rooms and which usually provides a morning meal as part of the room-rate structure.

“ 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, cooking, eating, and sanitation, which meets the minimum requirements of the Everett Housing Code, and in which all habitable rooms are internally accessible from within the dwelling.

“ Rooming house ” means a structure used for the purpose of providing lodging or lodging and meals, for persons other than those under the “family” definition, for a period longer than thirty days. This term includes cooperative housing and similar establishments but does not include hotels, motels, medical care facilities or bed-and-breakfast inns.

“ Short-term rental ” means the use of an entire dwelling unit or portion thereof by any person or group of persons to occupy for rent for a period of less than thirty consecutive days. Short-term rentals do not include bed-and-breakfast inns, hotels and motels.

“ Hotel ” or *“ motel ”* means a transient accommodation offering three or more lodging units to guests for periods of less than thirty days, and may also provide incidental services such as restaurants, meeting rooms or recreational facilities. Also see *“ Bed and breakfast inns. ”*

EXHIBIT B – EMC 19.05.080 RESIDENTIAL USES

EMC 19.05.080 Table 5-1 residential use table.

USE	R-S	R-1	R-2	R-2(A)	UR3	UR4	NB	B	MU	LI1 LI2	HI	AG	SPECIAL REGULATIONS
Bed and breakfast houses	€ ¹¹	€ ¹¹	€ ¹¹	€	P	P	P	P	P			A	See EMC 19.08.140. ¹¹ Within the R-S, R-1 and R-2 zones, bed and breakfast houses shall be permitted only in homes individually listed on the national, state or Everett historical register. Homes within historic districts which are not individually listed on the national, state or Everett historical register are not eligible to become bed and breakfast houses.
Rooming house					A	P	A ⁸	P ⁸	P ⁸	A ⁷		P	The number of rooms allowed in a rooming house shall not exceed the number of dwelling units allowed by the density standards of the zone in which the property is located; in the event the zone does not have density standards, then the density limits in the comprehensive plan shall be used. ⁷ Permitted only within an existing dwelling unit. ⁸ TOD or pedestrian streets: prohibited use on the ground floor.
Short-term rentals	P	P	P	P	P	P	P	P	P			P	See EMC 19.08.150 for short-term rental requirements.



EXHIBIT C – EMC 19.08 RESIDENTIAL USES AND DEVELOPMENT STANDARDS

~~EMC 19.08.130 Boarding and rooming.~~

~~In the R-S, R-1, R-2 or R-2(A) zones, rental of rooms for lodging is limited to two roomers. There shall be no separate kitchen facilities in rented rooms.~~

~~EMC 19.08.140 Bed and breakfast house.~~

~~The following standards apply to a bed and breakfast house located in a residential or agricultural zone:~~

- ~~A. The bed and breakfast house shall be conducted in such a manner as to give no outward appearance nor manifest any characteristics of a business, in the ordinary meaning of the term, that would infringe upon the right of the neighboring residents to enjoy a peaceful occupancy of their homes. The bed and breakfast house shall be operated within the principal structure and not in any accessory structure.~~
- ~~B. The owner shall be the operator of the facility and shall reside on the premises.~~
- ~~C. There shall be no more than five guest rooms for persons other than the members of the immediate family of the operator.~~
- ~~D. There shall be no cooking facilities permitted in guest rooms.~~
- ~~E. The maximum stay permitted for guests shall not exceed ten consecutive days.~~
- ~~F. In considering an application for a bed and breakfast house, the review authority shall consider the impact that noise and traffic from the proposed bed and breakfast house would have on the neighborhood in which the house is located. Within these zones, the review authority shall have the authority to deny an application if the noise or traffic generated by a bed and breakfast house would infringe upon the right of the neighboring residents to enjoy a peaceful occupancy of their homes; or if the street system is not sufficient to provide emergency vehicle access to the bed and breakfast house and other neighboring properties.~~

EMC 19.08.150 Short-term rentals.

- A. Short-term rentals are the use of an entire dwelling unit or portion thereof by any person or group of persons to occupy for rent for a period of less than thirty consecutive days. Short-term rentals do not include ~~bed and breakfast inns, hotels and motels.~~
- B. *License Required.* A city business license is required to operate a short-term rental. No more than two short-term rental sites may be operated by any individual, marital group, a group of people, or a corporate entity such as an LLC, within the city.
- C. *Location.* A short-term rental use may be located in a dwelling unit or an accessory dwelling unit. See EMC 19.08.100 for applicable accessory dwelling unit requirements, including owner-occupancy if applicable.
- D. *Number of Guests.* The total number of ~~residents and~~ guests occupying a dwelling unit may not exceed eight, including any site with an accessory dwelling unit.
- E. *Signs.* No signs identifying the use as a short-term rental are permitted.

~~F. *Off-Street Parking.* The short-term rental shall have no less than three off-street parking spaces for any site with on-street parking in front of the site, and no less than four off-street parking spaces for any site without on-street parking in front of the site.~~

EXHIBIT D – EMC 19.34.020 REQUIRED OFF-STREET PARKING SPACES.

19.34.020 Required off-street parking spaces.

The minimum number of required off-street vehicle parking spaces shall be determined in accordance with Table 34-1, unless otherwise set forth in this chapter.

Table 34-1: Off-Street Parking Spaces Required

Land Use	Minimum Parking Spaces Required*
RESIDENTIAL	<i>Spaces per dwelling unit unless otherwise indicated</i>
Accessory dwelling unit	1, plus required space(s) for principal dwelling; see EMC 19.34.050(C) for exceptions
Bed and breakfast house	1 per guest room, plus required space(s) for dwelling
Boarding or rooming house, dormitories	1 per 3 bedrooms
Day care, family home or adult family home	2 per dwelling unit, plus 1 for each staff person on shift not living on premises
Dwelling, micro-housing	1 per 2 dwelling units
Dwelling, multifamily	See multifamily (EMC 19.34.025)
Dwelling, single-family (1-unit) detached	2 per dwelling unit; where access is from a private drive: 3 per dwelling unit, except 2 per dwelling on a full-frontage lot that has on-street parking
Dwelling, 2- to 4-unit attached; cottage housing	
Group housing (Category 1 or 2); group housing, temporary shelter; or rooming house	1 per 4 bedrooms, plus 1 per every 2 employees on shift (2 spaces minimum)
Group housing (Category 3), including independent living units in congregate care facility, convalescent or nursing homes	Independent Living Units: 0.75 per dwelling unit or see exception in EMC 19.34.050(D) Congregate care, nursing home, etc. where people are assisted with daily activities: 1 for each 4 beds
Supportive housing	As determined by planning director and city engineer, with no less than a minimum of 1 per 4 bedrooms, plus 1 per every 2 employees on shift (2 spaces minimum). When allowed to be less than required for multiple-family housing, must be located within 1,320 feet walking distance of public transit stop, with pedestrian access on sidewalk or safe walking path.
Live/work unit	1 per unit, plus 1 additional space for any unit with 1,500+ square feet of gross floor area.
Senior housing	0.75 per dwelling unit
Short-term rentals	For rental of an entire dwelling unit: three off-street parking spaces for any site with on-street parking in front of the site, or and no less than four off-street parking spaces for any site without on-street parking in front of the site. For rental of rooms within a dwelling unit: one off-street parking space per guest room. See EMC 19.08.150

Planning Commission Staff Memo:

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Exhibit D: EMC 19.34.020 Required Number of Off-Street Parking Spaces

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