

STAFF MEMORANDUM

TO: Everett Planning Commission
FROM: Rebecca McCrary, Long Range Planning Manager
DATE: July 14, 2022
MEETING DATE: July 19, 2022
SUBJECT: Removing Limits on Number of Residents in Dwellings
([Engrossed Substitute Senate Bill 5235](#))

INTRODUCTION

The planning commission received briefings on April 15, May 17, and June 21, including background and an overview of the city's policies, regulations, and recent state legislation affecting limits on number of residents in dwellings. A public hearing is scheduled for the July 19 planning commission meeting, after which the planning commission will be asked to provide a recommendation to the city council via resolution 22-003.

BACKGROUND

See the following materials for the scope of the project, relevant policy guidance, recent changes to state law and proposed amendments.

April 19 Planning Commission Meeting

- [April 15 staff memo](#)
- [April 19 presentation slides](#) (Slides 1-19)

May 17 Planning Commission Meeting

- [May 17 presentation slides](#) (Slides 20-25)

June 21 Planning Commission Meeting

- [June 17 staff memo](#)
- [June 21 presentation slides](#) (Slides 33-42)

UPDATED PROPOSAL

Most of the proposed code amendments remain the same as presented to the Planning Commission on June 21, 2022. Staff made some changes, highlighted in red and green text in the exhibits, based on staff review and suggestions provided by the Washington State Department of Commerce. The SEPA comment period ended on July 6, 2022, and no other comments have been received.

Department of Commerce Suggestions

The proposed amendments were submitted to the Washington State Department of Commerce for a 60-day review period as required. The Department provided the city with a suggestion related to the proposal:

Review regulations related to "group housing" for consistency with SB 5235.

Staff response: Staff reviewed the group housing regulations and determined that amendments to the definitions in EMC 19.05.050 (Exhibit A) limiting the number of unrelated



persons in the group housing setting are necessary to meet consistency with SB 5235. Additional recommended changes include adapting the use matrices EMC 19.05.080 Table 5-1 to require a higher level of permit review relative to impacts and public input from a higher occupancy group home. Previous thresholds of six or less and more than six were used to determine permit process thresholds.

Planning Commission Comments

At the June 21 meeting, planning commissioners inquired about the parking requirements for short term rentals. As background, the current definition of short term rentals specified the use of the entire dwelling only. To be more consistent with the state definition, an amendment is proposed to include portions of a dwelling to be used for that purpose as well, resulting in potential additional parking demands. For that reason, staff proposed additional parking requirements by guest bedroom to account for the potential. The existing language regarding short term rental parking was moved from EMC 19.08.150 for code consistency. Additional research will be required to consider a modification to the existing provisions as well as some targeted outreach to the public. Staff recommends the proposal as presented.

REQUEST OF THE PLANNING COMMISSION

Review the background materials and code amendments in the exhibits, hear from the public, and make a recommendation to the city council via Resolution 22-003 as proposed or amended.

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
- Planning Commission Resolution 22-003



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.

“ Group housing, residential care facility Category 1 ” means a state-licensed residential care facility designed to serve as the primary residence for up to six individuals and two resident staff, which has shared living quarters without separate bathroom and/or kitchen facilities for each unit.

~~*“ Group housing, Category 2 ”* means a state-licensed residential care facility designed to serve as the primary residence for seven to sixteen individuals and resident staff, which has shared living quarters without separate bathroom and/or kitchen facilities for each unit.~~

“ Group housing, extended care facility Category 3 ” means a state-licensed extended care facility, including an assisted living facility, congregate care facility, nursing or convalescent home, and any other group housing serving more than sixteen individuals.

“ 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 or 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 | C¹¹ | C¹¹ | C¹¹ | C | P | P | P | P | P | | | A | See EMC 19.08.140. ¹¹Within 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. |
| Group housing, residential care facility Category 1 | p ¹² | p ¹² | p ¹² | p ¹² | P | P | P ¹ | P ¹ | P ¹ | P ⁷ | | | ¹ TOD streets: Residential use on the ground floor cannot exceed 25% of the street frontage of the block. ⁷ Permitted only within an existing dwelling unit. ¹² A conditional use permit is required for group housing, residential care facilities serving more than six individuals. |
| Group housing, Category 2 | | | | | P | P | P¹ | P¹ | P¹ | P⁷ | | | ¹TOD streets: Residential use on the ground floor cannot exceed 25% of the street frontage of the block. ⁷Permitted only within an existing dwelling unit. |
| Group housing, Extended care facility Category 3 | | | | | A | P | A ⁸ | P ⁸ | P ⁸ | A ⁸ | | | ⁸ TOD or pedestrian streets: prohibited use on the ground floor. |
| 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. ⁷Permitted only within an existing dwelling unit. ⁸TOD 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. |

¹² A Conditional use permit is required for group housing, residential care facilities serving more than six individuals.



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 | <u>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</u> |



PLANNING COMMISSION RESOLUTION NO. 22-003

A Resolution Recommending that the City Council Adopt Amendments to the Everett Municipal Code Regarding Number of Unrelated Persons Living in a Dwelling; Amending Chapters 19.04 Definitions, 19.05 Uses, 19.08 Residential Uses and Development Standards, and 19.34 Parking, Loading and Access Requirements.

WHEREAS,

- A.** Washington State passed several legislative changes to the housing laws in 2021 including Engrossed Substitute Senate Bill 5235 (SB 5235); and
- B.** The Washington State Legislature, in passing SB 5235, found that local regulations, such as occupancy limits on dwelling units, act as arbitrary barriers and restrictions that limit affordable housing opportunities; and
- C.** Section 5 of SB 5235, codified in RCW 35.21.682, prohibits 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 by state law or “short-term rentals” and lawful limits on occupant load per square foot or generally applicable health and safety provisions; and
- D.** Section 5 of SB 5235 Housing Unit Inventory-Removing Limits became effective July 25, 2021; and
- E.** Amendments are necessary for the city’s development regulations to be consistent with SB 5235; and
- F.** The amendments to development regulations (unified development code) contained in this ordinance were prepared following the procedural requirements in EMC 15.02.095 and EMC 15.03.300; and
- G.** The Planning Commission held briefings on these code amendments on April 19, May 17, and June 21, and held a public hearing on the matter on July 19, 2022; and
- H.** The Planning Commission, after hearing from the public and deliberating, voted to approve Resolution 22-003 on _____, recommending the city council approve the amendments contained in this ordinance, after the Planning Commission’s consideration; and
- I.** The proposal has been properly noticed and evaluated consistent with state law and city code; and
- J.** City staff reviewed the proposal under provisions of the State Environmental Policy Act, completed an environmental checklist, and issued a Determination of Non-Significance on June 23, 2022; and



- K. Notice of the proposed amendments was sent to the Washington State Department of Commerce on June 23, 2022; and
- L. The code amendments meet the applicable criteria in EMC 15.03.300(C)(4):
 - a. The public health, safety and welfare will be provided for by these unified development code amendments; and
 - b. The proposed amendment bears a substantial relation to public health, safety or welfare; and
 - c. The proposed amendments promote the best long-term interest of the Everett community.

NOW, THEREFORE, THE EVERETT PLANNING COMMISSION DOES RESOLVE:

The Planning Commission recommends that the City Council adopt the code amendments attached hereto as Exhibits A through D and incorporated herein as if fully set forth.

- 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

 Planning Commission Chair

 Date

 Planning Commission Secretary

For:

Against:

Absent:

Abstain:

