



**REGULAR MEETING AND SPECIAL PUBLIC HEARING OF THE  
NORTH BEND PLANNING COMMISSION**  
**Wednesday February 5, 2025, 6:30 PM**  
**City Hall, 920 SE Cedar Falls Way, North Bend, WA**

**AGENDA**

- 1) Call to order and roll call, Planning Commission**
- 2) Opportunity for public comment on non-agenda items**
- 3) Approval of minutes from December 18, 2024**
- 4) Introduction, Public Hearing and Potential Recommendation – Non-conforming Use  
amendments to ADUs in DC Zone, ADU regulation updates**
- 5) Adjournment by 8:30 unless otherwise approved.**

**PLEASE NOTE:** Members of the public may choose to attend the meeting in person or by teleconference. Members of the public attending the meeting in-person will have an opportunity to provide public comment and if attending the meeting by teleconference may submit written comments via in-person drop off, mail, fax, or e-mail to [planning@northbendwa.gov](mailto:planning@northbendwa.gov). All written comments must be received by 4 p.m. on the day of the scheduled meeting and must be 350 words or less. If an individual requires accommodation because of a difficulty attending the public meeting, the City requests notice of the need for accommodation by 3:30 p.m. on the day of the scheduled meeting. Participants can request an accommodation to be able to provide remote public comments by contacting the City by phone (425) 888-5633 or by e-mail to [planning@northbendwa.gov](mailto:planning@northbendwa.gov). No other remote public comment will be permitted.

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**REGULAR MEETING OF THE  
NORTH BEND PLANNING COMMISSION  
- ACTION MEETING MINUTES -**  
Wednesday, December 18, 2024, 6:30 PM

5 This meeting was held at City Hall, 920 SE Cedar Falls Way, North Bend, WA, and was also available online. A  
6 complete video recording of this meeting is available on the City of North Bend YouTube website, at  
7 [www.youtube.com](http://www.youtube.com), under "City of North Bend."

8

**AGENDA ITEM #1: CALL TO ORDER**

9  
10 The meeting was called to order at 6:30 PM.

11

**ROLL CALL**

12 Planning Commissioners present: Brian Fitzgibbon, Juliano Pereira, Stephen Matlock, Sam White, James Boevers  
13 (6:34 arrival). Olivia Moe is absent. Commissioner Hannah Thiel is absent and excused.

14  
15 City Staff Present: Mike McCarty, Planning Manager and Jamie Burrell, Senior Planner

16

**AGENDA ITEM #2: Public Comment on Non-Agenda Items**

17  
18 No comments.

19

**AGENDA ITEM #3: Approval of minutes from November 20, 2024 meeting**

20 Motion by Commissioner White seconded by Commissioner Pereira, to approve the November 20, 2024 meeting  
21 minutes. The motion passed unanimously.

22

**AGENDA ITEM #4: Planning Commission Procedures.**

23 Staff provided a summary of the amendments and answered questions.

24 Commissioner White made a motion to approve with suggestions provided at the meeting and via the email from  
25 Commissioner Thiel received 12.18.2024. The motion was seconded by Commissioner Fitzgibbon. The motion  
26 passed unanimously.

27

**AGENDA ITEM #5: 2025 Work Plan.**

28 Staff provided a summary of the work plan for 2025 and had a discussion with Planning Commission. Motion by  
29 Commissioner Boevers seconded by Commissioner Fitzgibbon, to recommend Council approval of the 2025 Work  
30 Plan. The motion passed unanimously.

31

**AGENDA ITEM #6: Adjournment by 8:30 PM unless otherwise approved by the Commission**

32 The Meeting was adjourned at 7:03p.m.



## Community and Economic Development Department Staff Report

**Proposal:** Amendments to the Accessory Dwelling Units (ADUs) Performance Standards in NBMC 18.10.050 section 1.52 and associated amendments to NBMC 18.10.041, and NBMC 18.06, and amendments to Nonconforming use – Continuance in NBMC 18.30.010 and Nonconforming use – Addition and enlargement in NBMC 18.30.050.

**Date:** February 5, 2025

**Proponent:** City of North Bend

**Staff Recommendation:**

A motion to recommend City Council approval of the proposed amendments to NBMC 18.10.050 section 1.52 concerning ADUs and amendments to Nonconforming use – Continuance in NBMC 18.30.010 and Nonconforming use – Addition and enlargement in NBMC 18.30.050.

## A. PROPOSED AMENDMENTS:

Amendments are proposed to the City of North Bend Land Use Performance Standards concerning Accessory Dwelling Units (ADUs) in NBMC 18.10.050 Section 1.00, Subsection 1.52, and associated amendments to NBMC 18.10.041, and NBMC 18.06. The amendments are intended to increase the number of ADUs permitted per lot up from one to two, increase the maximum size of ADUs from 800 square feet to 1000 square feet, permit the sale and/or subdivision of ADUs, revise setbacks applicable to ADUs, clarify definitions, and associated minor amendments.

The proposed code amendments are in response to recent legislative amendments to RCW 36.70A.680 and 681 passed by the legislature through House Bill 1337, which updates standards and laws that local governments can impose on ADUs. Subject to the amendments to RCW 36.70A.681 under HB1337, cities:

- Must allow two (2) ADUs per single family residential lot in any configuration of attached or detached, or through conversions of existing structures,
- May not require the owner to occupy the property, and may not prohibit sale as independent units,
- Must allow an ADU of at most 1,000 square feet and must adjust zoning to be consistent with the bill for things such as height, setbacks, and other regulations.
- May not require the provision of off-street parking for ADUs within one-half mile of a major transit stop (not applicable in North Bend),
- May not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an ADU.

This gives the City of North Bend the opportunity to update its own standards and regulations on ADUs to help meet housing and affordability goals by enabling existing or proposed single-family residential lots in all zones to contain additional housing units at a more affordable price.

Staff are therefore proposing amendments to the performance standards for ADUs, including the number of units permitted per lot, maximum size of the units, sale/subdivision of the units from principal dwelling, identify sewage connection requirements, and placement of the units to ultimately allow for the construction/availability of more housing stock at a relatively affordable price when compared to a typical single-family home.

Associated amendments to NBMC 18.10.041 are provided to remove regulations pertaining to ADUs from this section, so that all ADU provisions are addressed in 18.10.050 subsection 1.52, and NBMC 18.10.041 only addresses residential accessory structures and uses (and not ADUs). Additional definitions have been proposed to NBMC 18.06 to align with state recognized ADU definitions in HB1337 and provide clarity within the code.

Additionally, there are proposed amendments to the nonconforming use code in NBMC 18.30. Proposed amendments to NBMC 18.30.010 are included to address non-conforming single-family lot uses within the Downtown Commercial (DC) zone. Amendments to NBMC 18.30.010 also describe an amnesty path toward ADU legalization for residential lots with a building or enclosure that was legally established but not permitted to operate as an ADU. The amendment would provide a three-year period for properties to conform structures used as ADUs to building standards, fire standards, and ADU recording requirements to bring the structures into legal conformity with the code.

Amendments are also proposed to NBMC 18.30.050 Nonconforming use – Additions and enlargements that grant an exemption for ADU additions for non-conforming single-family uses in the DC zone. Under the current code, any single-family lot in the DC zone would be limited for ADU additions or expansions by 20 percent of the gross floor area and 20 percent of the lot area. The amendment would exempt ADUs from the 20% addition and enlargement limitation and clarifies the subject limitation would be applicable only to the single-family home.

The proposed municipal code amendments are provided within the attached Exhibit A.

## **B. FINDING AND ANALYSIS:**

- 1. Public Hearing:** A public hearing is scheduled for the February 5<sup>th</sup>, 2025 Planning Commission Meeting.
- 2. Municipal Code Amendment Process:** Municipal code amendments are governed by NBMC 20.08.070 through 20.08.110, evaluated below.

**a. Impacts of Proposed Amendment**

NBMC 20.08.070 and .080 requires that municipal code amendments be evaluated for their environmental, economic and cultural impacts, as well as impacts to surrounding properties. These impacts are evaluated below.

- i. Environmental Impacts.** No environmental impacts are anticipated from revising the land use performance standards concerning ADUs. Regulations protecting critical areas, managing storm water runoff (including maximum impervious surface limits per property based on zoning), and controlling floodplain impacts are governed by the Critical Area Regulations in NBMC Title 14, and apply regardless of development that occurs on a site. Such review will occur upon submittal of an application for development.
- ii. Economic Impacts.** The amendments have a positive economic impact for the City of North Bend by making the development of ADUs less restrictive and therefore encouraging the development of more ADUs that can provide the city with more housing stock at more affordable prices. This is particularly important for many people who work in North Bend, particularly within the retail and service industries, who cannot find local housing that they can afford. New residents/tenants would also be added to the city's tax base, supporting local businesses.
- iii. Cultural Impacts.** No significant cultural impacts are anticipated from the proposed amendments. ADUs provide a form of housing stock that is largely lacking in the City of North Bend, allowing people from a wide range of incomes the opportunity to live in the city, as well as increasing housing options for households with elderly parents or grown children.

**b. Impacts to Surrounding Properties.** The proposed amendments are not specific to any particular properties. However, the amendments have the potential to impact the amount of readily available on-street parking if not enough off-street parking is provided for an ADU. The City's parking regulations require 1 parking stall for each ADU (in addition to parking required for the primary home), which should provide sufficient off-street parking to limit impacts to street parking.

**3. Compatibility of Proposed Amendment with North Bend Comprehensive Plan**

In accordance with NBMC 20.08.070 and .080, applications for municipal code amendments must be evaluated for compliance with the Comprehensive Plan.

The North Bend Comprehensive Plan Housing Element calls for a mix of housing types and densities to help meet housing demands for the region. The Housing Element also calls for the permittance of two ADUs per lot where single-family homes are permitted.

The proposed amendments are consistent with the following Comprehensive Plan Goals and Policies:

**Housing Goal 1:** Encourage a variety of housing types and densities compatibly located to meet the demands of a diverse population.

Housing Policy 1.2: Encourage the provision of a diversity of housing types and sizes to meet the needs of a wide range of economic levels, age groups and household make-up.

Housing Policy 4.9: Support and allow the development of a variety of housing types that increase the availability of housing affordable to all economic segments of the city's population.

Housing Policy 6.6: Encourage and support accessible design and housing strategies, such as ADUs, that provide seniors the opportunity to remain in their own neighborhood as their housing needs change.

#### **4. Compatibility of Proposed Amendment with the North Bend Municipal Code (NBMC)**

In accordance with NBMC 20.08.070 and .080, application for municipal code amendments must be evaluated for compliance with the North Bend Municipal Code.

The amendments, which bring North Bend's municipal code regarding ADUs up to state standards and requirements are consistent with a stated purpose of the Low-Density Residential zone in NBMC 18.10.020(A)(3), which reads, "Accommodate other uses compatible with single-family residences and other types of innovative styles of residential units including accessory dwelling units."

#### **5. Consistency with NBMC 20.08.100**

Pursuant to NBMC 20.08.100, the Planning Commission shall consider the proposed amendment against the criteria in NBMC 20.08.100 (B). A staff analysis is provided in italics under each criterion below.

1. Is the issue already adequately addressed in the Comprehensive Plan?  
*The amendments are to the North Bend Municipal Code and not the Comprehensive Plan. See further description on compatibility of the proposed amendments to the Comprehensive Plan above.*
2. If the issue is not addressed in the Comprehensive Plan, is there a need for the proposed change?  
*Yes. As described further under section A, the amendments are proposed to better enable ADUs to be developed both in larger size and quantity within the City of North Bend, which is intended to help fill the need for more housing; The amendments are also needed to meet state requirements when regulating ADUs.*
3. Is the proposed change the best means for meeting the identified public need?  
*Yes. The draft amendments are the best means to meet the changes to restrictions on ADUs imposed by the state.*
4. Will the proposed change result in a net benefit to the community  
*Yes. The proposed regulations will result in a net benefit to the community by allowing for a higher quantity of alternative housing that serves different needs for housing while also being relatively more affordable than a detached single-family home.*

## **C. SUMMARY FINDINGS**

- 1) The Planning Commission considered the proposed draft amendments at their August 7 and August 21, 2024 Planning Commission meetings and held a public hearing on the draft regulations at their August 21, 2024 and February 5, 2024 meeting, receiving and considering comments (....TBD....).
- 2) The amended ADU standards will result in a benefit to the community by enabling the development of greater size and quantity of ADUs on individual lots consistent with state law, which can help to increase the supply of housing in forms that are more affordable.
- 3) Pursuant to RCW 36.70A.106, the draft regulations were forwarded to Commerce - Growth Management Services on July 29, 2024.
- 4) The Department of Commerce – Growth Management Services communicated on September 23, 2024 that additional amendments were needed to be fully in conformance with HB1337. Draft amendments were developed January 6, 2025.
- 5) A State Environmental Policy Act Determination of Non-significance on the proposed amendments was issued on January 17, 2025 and noticed appropriately.
- 6) The proposed amendments are consistent with the procedures established in NBMC 20.08, *Comprehensive Plan and Development Regulations Amendment Procedures*. The Planning Commission finds that the proposed amendments are consistent with the criteria in NBMC 20.08.100(B) and would result in a net benefit to the community.

## D. RECOMMENDATION

### Staff Recommendation

The proposal is consistent with the development regulation amendment procedures in NBMC 20.08 and is supported by policies within the Comprehensive Plan. Staff recommends approval of the amendments to the Accessory Dwelling Units (ADUs) performance standards in NBMC 18.10.050 section 1.52, NBMC 18.10.041, NBMC 18.06, and NBMC 18.30.050.

### Planning Commission Recommendation

Based on the findings above and after consideration of the public comment received at the public hearing, the North Bend Planning Commission recommends **APPROVAL/DENIAL** of the proposed amendments to the Accessory Dwelling Units (ADUs) performance standards in NBMC 18.10.050 section 1.52, NBMC 18.10.041, NBMC 18.06, and NBMC 18.30.050.

### Exhibits:

Exhibit A: Municipal Code Amendments

Exhibit B: Written comment(s) received (if received)

**Proposed Amendments to NBMC 18.06.030.**

**18.06.030.A "A"**

1. "Abutting zones" means zoning districts sharing a common boundary. For purposes of landscaping and setback requirements, zones shall not be deemed abutting where the common boundary is at or within a street, railroad, trail, or other designated right-of-way.
2. "Accessory building" means a subordinate building, with separate means of egress, the use of which is incidental to the use of the main building and which is located on the same lot or on a contiguous lot, adjoining the principal lot, on most of one side.
3. "Accessory dwelling unit" or "ADU" means a year-round dwelling unit detached or attached to a single-family housing unit, duplex, triplex, townhome, cottage, or other housing unit., ADUs are no larger than 10 percent of the lot area or 800-1,000 square feet, whichever is smaller, with a maximum of one bedroom. Studios are allowed on lots less than 5,000 square feet with cooking facilities, sanitary facilities, and an independent means of access, either attached or detached to a single-family residence. ADUs must provide permanent provisions for living, sleeping, eating, cooking, and sanitation, have an independent means of access, and must be located on the same lot as a single-family residence. principal housing unit. ADUs may also be above a garage, provided the parking bays may not be converted to living space. An ADU may be allowed for sale by condominium pursuant to RCW 36.70A.681(1)(k).
4. "Accessory use" means a use incidental and subordinate to the principal use and located on the same lot or in the same building as the principal use.
5. "Administrative adjustment to standards" refers to the authority of the director of community services and/or his or her designee to change selected bulk and dimensional standards as outlined in procedures and criteria in the table of bulk and dimensional standards. An administrative adjustment may have similar or exact results, but is not the same mechanism as a variance, which may only be granted by the hearing examiner.
6. "Adult entertainment facilities" means enterprises predominantly involved, for commercial purposes, in the selling, renting, or presenting of books, magazines, motion pictures, films, video cassettes, cable television, live entertainment, performance, or activity distinguished or characterized by a predominant emphasis on the depiction, simulation, or relation to "specified sexual activities" as defined in this chapter for observation by patrons therein. Examples of such facilities include, but are not limited to, adult book or video stores and establishments offering panoramas, peep shows, or topless or nude dancing.
7. "Adult family home" means a regular family abode in which a person or persons provides personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services as regulated by the Department of Social and Health Services in Chapter 70.128 RCW and Chapter 388-76 WAC. An adult family home may provide services to up to eight adults upon approval from the Department of Social and Health Services under RCW 70.128.066. Secure community transition facilities are not considered adult family homes.
8. "Affordable housing" means owner-occupied or rental housing built on a site that was designated at the time of development approval, to accommodate a scale and finish of structure as stated in the development approval, that is intended to be affordable by households making no more than 80 percent of the median household income for the city of

## EXHIBIT A

North Bend as calculated using the U.S. Department of Housing and Urban Development (HUD) methodology, assuming standard Federal Housing Administration lending criteria and minimum down payments when applicable, at the time of development approval.

9. "Agricultural land" means land meeting any one or more of the following definitions:
  - a. Land primarily devoted to commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW [84.33.130](#) through [84.33.140](#), finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production; or
  - b. Land that is currently in use for agriculture as evidenced by its current enrollment in the open space taxation program pursuant to Chapter [84.34](#) RCW.
10. "Agricultural land productivity" means:
  - a. Any parcel of land that is 20 or more acres or multiple parcels of land that are contiguous and total 20 or more acres:
    - i. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes; or
    - ii. Enrolled in the federal conservation reserve program or its successor administered by the United States Department of Agriculture; or
    - iii. Other similar commercial activities as may be established by rule; or
  - b. Any parcel of land that is five acres or more but less than 20 acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:
    - i. One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and
    - ii. On or after January 1, 1993, \$200.00 or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter.
11. "Alley" means an improved thoroughfare, right-of-way, or easement, narrower than a street, that provides vehicular and nonmotorized access to an interior boundary of one or more lots, and is not designed for general traffic circulation.
12. "Alterations" means a change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another. In buildings for business, commercial, industrial or similar uses, the installation or rearrangement of partitions affecting more than one-third of a single floor area shall be considered an alteration.
13. "Anchor store" means commercial establishments including but not limited to antique shops, banks and financial institutions, bookstores, microbreweries, business offices, furniture/appliance stores, general stores (but not convenience stores), hardware stores, health clubs, pharmacies, and professional offices.
14. "Assisted living facility" means any facility that provides either temporary or permanent residence for senior citizens and which provides opportunities for common dining areas,

## EXHIBIT A

although some facilities may offer kitchen facilities in the individual units as well. Some assisted care facilities may offer minor health services on site, such as a resident nurse.

15. "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a principal housing unit, such as a single-family unit, duplex, triplex, townhome, cottage, or other housing unit. The attached accessory dwelling unit must be affixed to the residential structure on the property.

1516. "Attached, structure or building" means a structure or building joined or fastened to another structure or building by any means to become one continuous structure or building.

### **18.06.030.D. "D."**

1. "Design guidelines" means standards and principles relating to a variety of land use and community elements, including but not limited to site design, building design, landscaping, parking, signage, and pedestrian amenities, as found in North Bend's design review regulations, Chapter [18.34](#) NBMC.
2. "Detached accessory dwelling unit" means an accessory dwelling unit that is partly or entirely of a building that is separate and detached from a principal housing unit, such as a single-family unit, duplex, triplex, townhome, cottage, or other housing unit. A detached accessory dwelling unit located attached to or above a non-residential, freestanding structure on the property is considered detached. For example:
  - a. A freestanding garage with an accessory dwelling unit is a detached accessory dwelling unit.
  - b. A freestanding accessory dwelling unit may share a wall with a second freestanding accessory dwelling unit and meet the adopted definition of "detached accessory dwelling unit".
3. "Detached building" means a building that is not attached to any other building.
4. "Development" means any manmade alteration of unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment and materials and subdivision of land. For properties within the floodplain, development also includes the removal of more than five percent of the native vegetation on the property, or alteration of natural site characteristics.
5. "Development agreement" means an agreement that sets forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under Chapter [36.70A](#) RCW. A development agreement may be with a person having ownership or control of real property within the city's jurisdiction or for real property outside its boundaries as part of a proposed annexation or a service agreement.
6. "Dock" means a basin for moorage of boats, including a basin formed between the extension of two piers or the area between a bank or quay and a pier. Docking facilities may include wharves, moorage or docks or any place or structure connected with the shore or upon shorelands provided for the securing of a boat or vessel.
7. "Dwelling, duplex" means a building containing two dwelling units totally separated from each other by an unpierced wall extending from ground to roof. Duplex units may have separate legal lots.

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7. "Dwelling, multifamily" means a building containing two or more dwelling units, including units that are located one over the other. Multifamily dwellings typically occupy one common legal lot, however, as with duplexes, they may have separate legal lots.
8. "Dwelling, single-family" means a detached building designed for and occupied exclusively by one family and the household employees of that family.

### **18.06.030.P. "P."**

1. "Park" means a site designed or developed for recreational use by the public including but not limited to major categories of:
  - a. Indoor park facilities (activity centers, swimming pools);
  - b. Outdoor park facilities for active recreation (sportfields, playfields, and related);
  - c. Outdoor areas for passive recreation (conservation areas, typically with nonmotorized trails).
2. "Parking space" means a space within or without a building, exclusive of driveways, at least 10 feet by 20 feet, used to temporarily park a motor vehicle and having access to a public street or alley.
3. "Performance standards" means guidelines, standards, and/or criteria that govern permitted and/or conditionally permitted land uses.
4. "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services pursuant to RCW [36.70A.030](#). Permanent supportive housing is subject to all of the rights and responsibilities defined in Chapter [59.18](#) RCW.
5. "Permitted use" means any use authorized or permitted alone or in conjunction with another use in a specified district and subject to the limitations of the regulations of such use district.
6. "Pervious surface" means a surface which does not prevent or retard the entry of water into the soil mantle as under natural conditions prior to development.
7. "Place" means an open, unoccupied, named space, other than a street or alley, at least 25 feet in width, permanently reserved and so recorded in the county records as the principal means of access to abutting or adjacent property.
8. "Primary use" means the principal or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.
9. "Principal unit" means the primary residential unit on a lot, such as a single-family housing unit, duplex, triplex, townhome, cottage, or other housing unit, located on the same lot as an accessory dwelling unit.

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- | **109.** "Professional offices" means offices maintained and used as a place of business conducted by persons such as doctors, dentists, osteopathic physicians, naturopathic physicians, chiropractors, optometrists (but wherein no overnight care for patients is given), and by engineers, attorneys, architects, accountants and other persons or firms providing services in a manner that creates land use impacts similar to the specific uses listed above.
- | **1110.** "Prohibited uses" means land use activities, including associated buildings and/or structures, that are specifically prohibited by this zoning code, as listed in endnotes to Table 18.10.030.
- | **1214.** "Public utility" means a public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas and transportation for persons and freight.

### **18.06.030.S. "S."**

- 1. "School, elementary, junior or senior high, including public, private and parochial" means an institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Washington State Board of Education.
- 2. "Secondary use (incidental or accessory)" means a minor or second use for which a lot, structure or building is designed or employed in conjunction with but subordinate to its primary use.
- 3. "Secure community transition facilities" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under Chapter [71.09](#) RCW. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facilities established pursuant to RCW [71.09.250](#) and any other community-based facilities established under Chapter [71.09](#) RCW and operated by the secretary or under contract with the secretary.
- 4. "Semiprivate facility" means any facility to which a class or a group of the public is permitted to attend or use subject to the regulations of a club or other organization owning or regulating such facility.
- 5. "Senior citizen" means a person aged 62 or older.
- 6. "Senior citizen housing" means:
  - a. Housing which is exclusively devoted to housing for, and restricted to use by, senior citizens, as this term is defined in this section, either under the Housing and Urban Development (HUD) Section 2.02 Program and contracts and guidelines pertinent thereto or, after the expiration of such contracts and direct applicability of such guidelines, under the provisions of those contracts and guidelines which were in effect at the expiration of the applicability of Section 2.02 financing to any particular senior citizen project which has been established under such a Section 2.02 program.
  - b. Any change of use from that of senior citizen housing will immediately cause all provisions of the zoning code to apply without regard to the bulk and dimensional standards of Table 18.10.040 or the reduced-parking requirement of

NBMC [18.16.090](#), which otherwise may apply to senior citizen housing, and should housing be so changed from senior citizen housing, alternatives will immediately be required in order to gain code compliance, such as vacating units which cause excess density and conversion of such vacated units to facilities for use in common by the remaining project residents; and further, such as by immediately securing additional parking so as to meet parking requirements, or by converting additional dwelling units so as to meet parking requirements. Any delay that may be allowed by the city in implementing any application of municipal code requirements will not constitute a waiver of the full applicability of requirements of this zoning code, and developers of senior citizen housing will be deemed to be fully on notice that any bonus or requirement reduction relating to senior citizen housing applies only so long as the project is used for senior citizen housing.

c. Any developer of senior citizen housing is obligated to give six months' prior notice to the city of intent to abandon senior citizen housing status, and if the new use does not comply with requirements of this title, including but not limited to those pertaining to bulk and parking requirements, the occupancy permit for the building shall be revoked.

7. "Setback" means the distance that buildings and structures must be placed from respective front, side, and rear lot lines, subject to the provisions outlined in Table 18.10.040, Bulk and Dimensional Standards.

8. "Shelter station" means a shelter for the protection from the elements of the waiting customers of a public transportation system.

9. "Shopping complex" means individual commercial uses, typically divided in units, that are attached in a common building.

10. "Short term rental" means a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, is offered or provided to a guest by a short-term rental operator for a fee for fewer than 30 consecutive nights.

1110. "Sign" means any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

1214. "Solid planting" means a planting of evergreen trees and shrubs which will prevent a through and unobscured penetration of sight or light.

1312. "Specified sexual activities" means human genitalia in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, sodomy, or erotic fondling; touching or display of human genitalia, pubic region, buttocks, or female breasts.

1413. "Standard sized single-family home" means homes larger than 1,700 square feet in size.

1514. "Story" means that part of a building lying between two floors or between the floor and ceiling of the highest usable level in the building.

1615. "Street" means a public thoroughfare which affords the principal means of access to abutting properties.

1716. "Structural alterations" means any change in load or stress of the loaded or stressed members of a building or structure.

1817. "Structure" means a combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground. Not included are residential fences less than six feet in width, retaining walls, rockeries and similar improvements of a minor character less than three feet in height.

## EXHIBIT A

1918. "Substandard lots" means where an existing, recorded lot is substandard in width or area, and where the owner of the substandard lot does not own abutting lots which taken together would satisfy current lot width and area requirements, one single-family house may be constructed on a substandard lot, provided any new structure or substantial alteration to an existing structure must satisfy the current setback and lot coverage requirements of the zoning district in which it is located.

## EXHIBIT A

### Proposed Amendments to NBMC 18.10.041

#### 18.10.041 Bulk and dimensional standards for residential accessory ~~units~~ structures and uses.

- A. ~~Accessory dwelling units (ADUs)~~, ~~d~~Detached garages, and carports shall be located in side yard or rear yard areas only. All other accessory uses and structures to single-family dwellings, with the exception of fences, shall be located strictly in rear yard areas unless explicitly stated otherwise.
- B. ~~Detached ADUs~~, ~~d~~Detached garages, and detached carports shall maintain five-foot side yard and five-foot rear yard setbacks; however, side or rear yard setbacks may be reduced to zero feet on one side yard lot line if the side yard on the opposite side is a minimum of 15 feet for single-family and 10 feet for cottage. All other accessory uses and structures to single-family dwellings shall maintain five-foot side and rear yard setbacks.
- C. For multifamily dwellings, accessory uses and structures shall be located strictly in rear yard areas, and maintain the same standards in subsections (C)(2) and (3) of this section, except that:
  1. Garages may be located under residential units.
  2. Clubhouses, recreation centers, pools, or sport courts may be located per site plan review and approval.
  3. Fences shall be regulated per NBMC 18.18.175.
- D. On corner lots, to provide a clear view/sight-distance triangle per NBMC 18.18.175, a 10-foot side yard setback is required for accessory structures.
- E. ~~Accessory dwelling units (ADUs) do not require additional lot area than that required for a single-family dwelling, except ADUs are not permitted on lots less than 4,000 square feet.~~
- F.E. Height of accessory structures shall not exceed 25 feet.
- G.F. Nonconforming Lots and/or Structures. Lots, structures, and/or land uses legally created and/or legally in existence prior to the adoption date of these standards are not subject to the bulk and dimensional standards herein; provided, that any remodeling, reconstruction, or new construction on such lots or to such structures shall meet all bulk and dimensional standards.
- H.G. Conflict with Other Code Provisions. Where bulk and dimensional standards conflict with other standards, provisions of NBMC 18.04.020 shall apply.
- I.H. Site perimeter landscaping requirements in Chapter 18.18 NBMC shall apply to all sites unless precluded by placement of a building to a conflicting minimum setback distance.
- I. Shall comply with NBMC 18.10.050(1.52), Land Use Performance Standards.
- J. as follows

### Proposed Amendments to NBMC 18.10.050, Section 1.00 Residential Subsection 1.52

1.52 Accessory Dwelling Units (ADUs)	<ol style="list-style-type: none"><li>a. Single-family detached dwellings, including designated manufactured homes, are permitted to have <del>one-two</del> ADUs. ADUs shall not be permitted in conjunction with any other principal residential use, including but not limited to manufactured homes or mobile homes.</li></ol>
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- b. An ADU may be attached (i.e., located within or attached to a principal primary dwelling or detached (i.e., incorporated in a garage or other outbuilding to the single-family principal dwelling).
- c. ~~ADUs shall not be permitted on lots less than 4,000 square feet.~~
- d. ~~c.~~ ADUs shall not be larger than ~~10 percent of the lot area or 800-1,000~~ square feet, ~~whichever is smaller, and contain a maximum of one bedroom. Studies are allowed on lots less than 5,000 square feet and ADUs shall meet the height requirements of 1.51(b).~~
- e. ~~ADUs cannot be separated or subdivided in ownership from the principal dwelling.~~
- d. ADUs may be sold as condominiums subject to preparation of a condominium map per NBMC 17.24.
- f. ~~e.~~ The primary dwelling unit shall be owner-occupied. Permission for an ADU can only be applied for and granted to the property owner.
- f. ~~The~~ ADUs shall conform to building and impervious surface ~~lot coverage and setback~~ requirements ~~for the LDR~~ district.
- g. ADUs shall conform to the following bulk and dimensional standards:
  - i. Attached ADUs shall meet the bulk and dimensional standards applicable to the principal residential unit ~~primary structure~~.
  - ii. Detached ADUs shall be located in side yard or rear yard areas only.
  - iii. Detached ADUs shall maintain five-foot side yard and ten-foot rear yard setbacks.
  - iv. Detached ADUs shall not exceed 25' in height to the highest point of the ADU structure. On corner lots, a 10-foot side yard setback is required on the street side.

- v. ADUs do not require additional lot area than that required for a single-family dwelling.
- i.vi. Consistent with RCW 36.70A.681, detached ADUs may be sited at a lot line abutting a public alley that is not routinely plowed by the city.
- h. ADUs shall meet all building, electrical, fire, plumbing, parking, design standards, and other applicable code requirements, except that street frontage improvements are not required for ADUs consistent with RCW 36.70A.681.
- i. ADUs are permitted for existing single-family detached dwellings within zones with allowed residential uses but which do not allow single-family residential as a new use.
- j. ADUs shall be recorded on the property title with the King County Recorder's Office. It is the responsibility of the property owner to document the recording prior to final inspection. A copy of the recording shall be provided to the City. The City shall withhold issuance of the Certificate of Occupancy until a copy of the recording is on file.
- k. Properties that propose two ADUs on an existing residential property are required to develop a separate sewer connection as follows:
  - i. Detached ADUs developed for the purpose of selling the unit(s) for ownership shall require a separate sewer connection from the principal unit.
  - ii. Attached ADUs developed for the purpose of developing condominiums require a separate sewer connection from the principal unit.
  - iii. Properties developing two ADUs for the purpose of renting requires a minimum of one ADU to establish a separate sewer connection.

a. If an attached and a detached ADU is developed on the same lot, the detached unit shall be required to develop the separate sewer connection.

g.l. Homeowners Associations are not permitted to prohibit the development of ADUs. Associations with covenants, conditions, and restrictions or HOA agreements legally established prior to July 23, 2023 that prohibit the development of ADUs are permitted to continue those already established ADU prohibitions.

## EXHIBIT A

### Proposed Amendments to NBMC 18.30

#### **NBMC 18.30.010 Nonconforming use – Continuance.**

A. Nonconforming uses (i.e., buildings, structures, and/or land uses) may be continued provided there is no physical change other than permitted maintenance, repair/restoration, or addition/enlargement to such building, structure, or land use, as outlined per guidelines in NBMC 18.30.030, 18.30.040, and 18.30.050.

B. Existing nonconforming accessory buildings operating as an unpermitted ADU may be brought into conformance provided the following are met:

1. The subject accessory building was legally developed and received a building permit from the City of North Bend, including the approved final inspection.
2. A request to legalize an existing building operating as an unpermitted ADU shall include an application for a building permit, showing changes made to the primary dwelling unit and/or detached accessory building to accommodate the ADU.
  - i. Building Permit applications shall be submitted within a three-year period from the adoption of this ordinance.
  - ii. The building shall meet minimum building, utility, and fire standards to ensure a safe, habitable environment.
  - iii. Minimum parking requirements for the ADU are met as described under NBMC 18.16.
3. Property owners shall meet property title recording requirements described in NBMC 18.10.050 within a five-year period of the adoption of this ordinance.
  - i. A copy of the property title recording shall be submitted to the City of North Bend prior to final inspection of the building permit for recordkeeping purposes.
  - ii. Failure to provide a copy of the recorded document prior to occupancy may result in code enforcement proceedings and/or delay issuance of a Certificate of Occupancy.
4. Nonconforming accessory buildings that do not meet current zoning standards may continue to operate as an ADU, provided that:
  - i. Additions and enlargements may be permissible if an addition or enlargement is necessary to bring a nonconforming ADU structure into conformance with the adopted Building or Fire code.
  - ii. Additions and enlargements shall not make the ADU exceed the maximum ADU size permitted under NBMC 18.10.050.
  - iii. Additions and enlargements should avoid furthering the nonconformity unless the applicant can demonstrate no other reasonable alternative is possible.
5. Nothing in this section shall require that the city permit existing ADUs that are determined to be unsafe, uninhabitable, or dangerous.

C. Existing nonconforming accessory buildings may be converted into ADUs provided the following are met:

1. The subject accessory building was legally developed and received a building permit from the City of North Bend, including the approved final inspection.
2. An application for a building permit shall be submitted, demonstrating the building can be retrofitted to meet minimum building and fire standards.

3. Nonconforming accessory structures that do not meet current zoning standards may propose an ADU, provided that:

  - i. Additions and enlargements shall not make the ADU exceed the maximum ADU size permitted under NBMC 18.10.050.
  - ii. Additions and enlargements should avoid furthering the nonconformity unless the applicant can demonstrate no other reasonable alternative is possible.
4. The City maintains the right to deny conversion projects that fail to meet minimum building, utility, and fire standards.

D. Unpermitted housing units shall be issued a Notice to Abate and shall be required to discontinue the residential use and/or remove the building, subject to the determination of the Building Official.

**NBMC 18.30.050 Nonconforming use – Addition and enlargement.**

A. A nonconforming building, structure, or land use (as applicable) may be added to or enlarged; provided, that:

1. Such enlargement shall not exceed 20 percent of gross floor area for said building(s) or structure(s), and 20 percent of lot area dedicated to nonconforming land uses (where buildings/structures are not present);
2. Regardless of ownership, any enlargement shall be limited to a one-time only addition of the nonconforming building, structure, or land use;
3. Such enlargement conforms to the bulk and dimensional standards of the zoning district in which such building, structure, or land use lies. If no bulk and dimensional standards exist for the specific building, structure, or land use within a zoning district, standards for the use as prescribed in the lowest intensity district which would permit such use shall be applied to locate the building, structure, or land use;
4. Regardless of ownership, no expansion onto adjacent and nearby properties or adjacent and nearby legal lots shall be permitted;
5. No nonconforming signs shall be permitted to enlarge or expand;
6. In no case shall any prohibited uses as designated under NBMC 18.10.030 be permitted to enlarge or expand.

B. Nonconforming residential uses within the Downtown Core zone may be allowed additions and expansions for the purpose of adding accessory dwelling units (ADUs) to the lot in addition to allowances in NBMC subsection 18.30.050(A), provided that:

1. Limitations of additions and enlargements described in NBMC subsection 18.30.050(A) do not apply to ADUs proposed in the Downtown Core zone.
- 4.2. ADU and zoning development standards described in NBMC subsection 18.10.030-050 can be met on-site.
3. ADUs are not required to meet the development and design standards of the Form-Based Code.