



Planning & Community Development.

17500 Midvale Avenue North
Shoreline, WA 98133-4905
(206) 801-2500 ♦ Fax (206) 801-2788

ADMINISTRATIVE ORDER# 000125-041615

CODE INTERPRETATION

CODE SECTION: SMC 20.220.030(A)(7) Shoreline Exemption

- I. ISSUE:** The Shoreline Master Program (SMP) exempt development provisions in Shoreline Municipal Code (SMC) Section 20.220.030 allow for exemption from a Substantial Development Permit (SDP) for construction of a single family residence, including those structures which are normal appurtenances, so long as the proposal is consistent with applicable provisions in the SMP including building setbacks and dimensional standards for the SMP and the density and dimensional standards of the zoning provisions are met.

Statewide normal appurtenances are listed and the SDP exemption recognizes that “local circumstances may dictate additional interpretations of normal appurtenances” and requires that they be set forth and regulated within the applicable Master Program. No specific local appurtenances for single family residences were explicitly set forth in the updated SMP adopted in 2013, however a number of accessory uses and structures are considered to be appurtenances in the City of Shoreline through the development regulations set out in SMC Title 20.

Accessory Dwelling Units are an accessory use to the primary residence as defined in SMC 20.50.210, not subject to the density standards, and can either be attached or detached, but must meet all other dimensional requirements under zoning, shoreline master program, and critical area regulations. It is unclear whether this appurtenance can be considered under the exemption to the SDP process under SMC 20.220.030(A)(7) as it is not explicitly listed as a permitted accessory use or appurtenance for a single family residence.

- II. FINDINGS:** ADUs are regulated in the Shoreline Master Program and development codes as follows:

Shoreline Municipal Code (SMC) 20.220.030 Shoreline Exemption (A)(7)

A. The Director is hereby authorized to approve or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in RCW 90.58.030 and WAC 173-27-040. The statement shall be in writing and shall indicate the specific exemption of the Master Program that is being applied to the development, and shall provide a summary of the Director's analysis of the consistency of the project with this Master Program and the Act. WAC 173-27-040 delineates exemptions and is included below.

Exemptions from the Substantial Development Permit process include:

7. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the State agency or local government having jurisdiction thereof, other than requirements imposed pursuant to Chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable Master Program. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

SMC Table 20.230.081 Permitted Uses and Modifications within the Shorelines

Table 20.230.081 indicates that residential developments are permitted in all Shoreline Environments, except Aquatic, subject to the development policies and regulations for residential development in the SMP.

SMC 20.230.140 Residential development.

- A. 1. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.*
- 2. A shoreline substantial development permit is not required for construction of a single-family residence by an owner, lessee, or contract purchaser for their own use or the use of their family. Single-family residential construction and accessory structures must otherwise conform to this Shoreline Master Program.*
- 3. A shoreline variance or shoreline conditional use permit may be required for residential development for situations specified in the Shoreline Master Program.*
- 4. Uses and facilities associated with residential development, which are identified as separate use activities in this Shoreline Master Program, such as land disturbing activities, are subject to the regulations established for those uses in this section.*
- B. Residential Policies.**
 - 1. Public access should be provided in accordance with SMC 20.230.040.*
 - 2. Residential development and accessory uses should be prohibited over the water.*
 - 3. New subdivisions should be encouraged to cluster dwelling units in order to preserve natural features, minimize physical impacts, and provide for public access to the shoreline.*
 - 4. In all new subdivisions and detached single-family developments with four dwelling units, joint use shoreline facilities should be encouraged.*

5. Accessory uses and structures should be designed and located to blend into the site as much as possible. Accessory uses and structures should be located landward of the principal residence when feasible.

C. Residential Regulations.

1. Residential development is prohibited waterward of the OHWM and within setbacks defined for each shoreline environment designation.

2. Residential development shall assure no net loss of shoreline ecological functions.

3. Residential development shall not be approved if geotechnical analysis demonstrates that flood control or shoreline protection measures are necessary to create a residential lot or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works.

4. If wetlands or other critical areas are located on the development site, clustering of residential units shall be required in order to avoid impacts to these areas.

5. Storm drainage facilities shall include provisions to prevent the direct entry of uncontrolled and untreated surface water runoff into receiving waters as specified in the Stormwater Manual.

6. Subdivisions and planned unit developments of four waterfront lots/units shall dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for all residents of the development and the general public. When required, public access easements shall be a minimum of 25 feet in width and shall comply with the public access standards in SMC 20.230.040. The design shall conform to the standards in the Engineering Development Manual.

7. Single-family residential development shall maintain a minimum setback from the OHWM consistent with Table 20.230.082.

8. Multifamily residential development shall maintain a minimum setback from the OHWM consistent with Table 20.230.082.

9. One accessory structure to the residence may be placed within the required shoreline setback provided:

a. No accessory structure shall cover more than 200 square feet.

SMC 20.40.120 Residential uses.

Table 20.40.120 indicates that accessory dwelling units are permitted in all zones subject to the specific conditions indicated in the Index of Supplemental Use Criteria in 20.40.210.

SMC 20.40.210 Accessory dwelling units.

A. Only one accessory dwelling unit per lot, not subject to base density calculations.

B. Accessory dwelling unit may be located in the principal residence, or in a detached structure.

C. Either the primary residence or the accessory dwelling unit shall be occupied by an owner of the property or an immediate family member of the property owner. Immediate family includes parents, grandparents, brothers and sisters, children, and grandchildren.

Accessory dwelling unit shall be converted to another permitted use or shall be removed, if one of the dwelling units ceases to be occupied by the owner as specified above.

D. Accessory dwelling unit shall not be larger than 50 percent of the living area of the primary residence.

Exception to SMC 20.40.210(D): An accessory dwelling unit interior to the residence may be larger than 50 percent of the primary residence where the unit is located on a separate floor and shares a common roof with the primary residence.

E. One additional off-street parking space shall be provided for the accessory dwelling unit.

F. Accessory dwelling unit shall not be subdivided or otherwise segregated in ownership from the primary residence.

G. Accessory dwelling unit shall comply with all applicable codes and standards.

H. Approval of the accessory dwelling unit shall be subject to the applicant recording a document with the King County Department of Records and Elections prior to approval which runs with the land and identifies the address of the property, states that the owner(s) resides in either the principal dwelling unit or the accessory dwelling unit, includes a statement that the owner(s) will notify any prospective purchasers of the limitations of this Code, and provides for the removal of the accessory dwelling unit if any of the requirements of this Code are violated.

SMC 20.50.100 Location of accessory structures within required yard setbacks – Standards.

No accessory structure shall be located within any required setback.

Exception 20.50.100(1): One uninhabited freestanding structure less than 10 feet high and 200 square feet in footprint area, such as a storage shed or greenhouse, may be located within the required rear or side yard setback. This structure shall retain a fire separation distance as specified in adopted building codes.

Exception 20.50.100(2): If the accessory structure, which is less than 200 square feet in footprint and less than 10 feet high, is located in the side yard, such structure shall be set back at least five feet further than the house from any street.

Planning Commission and City Council Meetings

A review of minutes from the planning commission and council meetings where development and adoption of the Shoreline Master Program update was discussed did not find any mention of accessory dwelling units related to discussion of the SMP.

III. CONCLUSIONS:

The Shoreline Master Program policies and regulations for residential development exempt a single family residence from the shoreline substantial development permit process and this exemption includes accessory structures under SMC 20.230.140(A)(2). Additionally, SMC 20.230.140(B) provides policies that address accessory uses associated with residential development.

Accessory dwelling units are allowed only as an accessory to a permitted dwelling unit in any zone, subject to the dimensional standards for the applicable zone and criteria identified in the supplemental use criteria. As such, they are not allowed in a required building setback unless the structure they are located in was legally established in the existing location. They are not allowed in structures established in required setbacks under Exception 20.50.100(1) and (2) or under or under SMC 20.230.140(C)(9).

A second family is permitted to live in the ADU and one additional parking space is required. Due to the 50 percent size limitation on an ADU relative to the primary residence it is typical for the ADU to be occupied by many fewer adults than the maximum allowed by definition of a family.

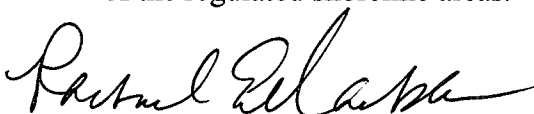
The same dimensional standards for setbacks, building height and lot coverages apply to accessory dwelling units whether attached or detached from the primary residence so the impact from the structures themselves is no different than one single family residence with garage, shed, and other allowed accessory structures.

None of the improvements related to an ADU would be located closer to the Ordinary High Water Mark than the permitted residential use on a given parcel.

IV. DECISION:

Accessory Dwelling Units by their definition and regulatory limits are connected to the use of a single family residence and must be located landward of the Ordinary High Water Mark and must fit within the same buildable area on the lot as the single family residence and all other accessory structures.

Accessory Dwelling Units are permitted in all zones in the City where residential uses are allowed and the intention of the City when adopting the updated Shoreline Master Program in 2013 did not include explicit prohibition on ADUs within the areas regulated by the SMP. The intention was to continue allowing Accessory Dwelling Units within the area regulated by the Shoreline Master Program, the same as outside of the regulated shoreline areas.



Director's Signature

4-17-15

Date

Juniper Nammi, Associate Planner

Prepared by

April 17, 2015

Date

Misty Blair, Regional Planner, NWRO

WA DOE Administrative Interpretation Review Memo attached

April 17, 2015

Date

Administrative Interpretation Review

Local government: City of Shoreline

Ecology review sent to local government: 4/17/2015

Ecology Staff: Misty Blair, Regional Planner, NWRO

This document summarizes Ecology's review and consultation of a local Administrative Interpretation consistent with WAC 173-26-140.

Local government request

Notice: email received 04/17/2015.

City of Shoreline submitted a request for review of a draft administrative interpretation titled:

ADMINISTRATIVE ORDER#000125-041615 CODE INTERPRETATION

Code Section: SMC 20.220.030(A)(7) Shoreline Exemption

The City identified that, it is unclear whether Accessory Dwelling Units (ADUs) can be considered as a normal appurtenance to a single family residence that is exempt from a substantial development permit under SMC 20.220.030(A)(7) as ADUs are not explicitly listed as a permitted accessory use or appurtenance for a single family residence within the City's Shoreline Master Program.

The City found that ADUs are a common and acceptable accessory use to a primary residence (as defined in SMC 20.50.210) and were anticipated as part of the SMP-update. ADU's can either be attached or detached, but must meet all other dimensional requirements under zoning, shoreline master program, and critical area regulations. As such, the City would like to clarify that a single family dwelling containing an ADU could still be considered exempt from the Shoreline Substantial Development Permit process, provided the project is compliant with the Shoreline Management Act, the City of Shoreline Master Program, and any other regulatory requirements.

Ecology analysis and consistency determination

The City finds that while the SMP does not specifically address ADUs as normal appurtenances to a single family residence, the Shoreline Municipal Code (SMC) 20.40.120 indicates that accessory dwelling units are permitted in all zoning districts where residential uses are allowed. The City concludes that the impact from ADU structures would be no different than a single family residence with garage, shed, and other allowed accessory structures because:

- The same dimensional standards for setbacks, building height and lot coverage would apply to accessory dwelling units whether attached or detached from the primary residence.
- None of the improvements related to an ADU would be allowed to be located closer to the Ordinary High Water Mark than the permitted residential use on a given parcel.

WAC 173-27-040(2)(g) does acknowledge that *local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program*. This interpretation is consistent with the purpose and intent of RCW 90.58.020 to plan for reasonable use while protecting against adverse effects to the public health.

Ecology notes

This administrative interpretation could inform a future amendment to the SMP.

