



City of Seattle  
Gregory J. Nickels, Mayor

**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
DETERMINATION OF NON-SIGNIFICANCE BY  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Applicant Name:** Department of Planning and Development

**Address of Proposal:** Amendments to the Land Use Code to allow backyard cottages (detached accessory dwelling units) city-wide.

**SUMMARY OF PROPOSED ACTION**

This non-project proposal would allow backyard cottages (detached accessory dwelling units) on eligible lots in all single-family zones. An annual cap could be set on the number of backyard cottages allowed. Regardless if a cap is imposed or what the cap limit would be, the total number of (accessory dwelling units) ADUs would fall within the range of 102-124 permits per year and within the range of units analyzed under the SEPA checklist's assessment of environmental impacts. There would be no annual cap set for attached ADUs.

The proposal also makes other minor changes related to landlord-tenant relationships when occupying accessory dwelling units. Backyard cottages are currently permitted in the southeast sector of the city, and generally, the same standards in place in southeast Seattle are in the current proposal, but with the several updates or clarifications to the Land Use Code and the Housing and Building Maintenance Code.

The following approval is required:

**SEPA - Environmental Conditions** - Chapter 25.05, Seattle Municipal Code.

**SEPA DETERMINATION:**     Exempt     DNS     MDNS     EIS  
    DNS with conditions  
    DNS involving non-exempt grading, or demolition,  
   or involving another agency with jurisdiction.

**BACKGROUND DATA**

**Background**

A backyard cottage, also known as a detached accessory dwelling unit (DADU), is a small, often rented, living space that is on the same lot but physically separate from a single-family house. Backyard cottages are just one example of accessory dwelling units; another is an attached accessory dwelling unit (attached ADU). Attached ADUs have been permitted in all single-family zones in Seattle since 1994.

In 2006 Seattle's City Council approved Ordinance 122190 allowing backyard cottages in single-family zones in the southeast sector of the city. As outlined in the Director's Report accompanying this proposal, backyard cottages in the southeast have been built at a pace of approximately 9 per year (or 17 total since Ordinance 122190 became effective in 2006), and have been widely dispersed throughout the southeast. No concentrations in one particular neighborhood have occurred. There have been relatively few zoning complaints made to DPD from surrounding neighbors.

### Proposal Description

Under the proposed code amendments, homeowners in all single-family zones would be allowed to either construct a new structure containing a detached accessory dwelling unit or modify existing detached accessory structures to allow a second dwelling unit separate from the primary home. Permitting backyard cottages city-wide is intended to encourage new housing opportunities and choices for Seattle residents consistent with the character of single-family zoned areas. Backyard cottages are currently permitted in the southeast section of the city, under development standards in Seattle Municipal Code (SMC) Section 23.44.041, which restrict their height, bulk and scale. SMC 23.44.041 also regulates the minimum lot size, depth and width required to have a backyard cottage. Backyard cottages are not permitted within the Shoreline District.

The number of backyard cottages will be a portion of all ADU units permitted and built each year. The total number of both units could range from 102 to 124 and a cap on backyard cottages could be established. Regardless of a possible cap on backyard cottages, the total number of ADUs would still fall within the range of 102-124 permits per year and within the range of units analyzed under the SEPA checklist's assessment of environmental impacts. The potential for erosion impacts would vary according on the actual number of backyard cottages that are actually permitted and built.

SMC 23.44.041 also currently permits attached ADUs city-wide in single-family zones. Single-family homeowners would be allowed either an attached accessory dwelling unit or a backyard cottage, but not both. Several updates or clarifications to the Land Use Code and the Housing and Building Maintenance Code are proposed:

- Clarifying the just cause eviction exception for accessory dwelling units applies whether it is the principal home or the accessory dwelling unit that is rented.
- Minor terminology changes are proposed and the owner occupancy requirements are rewritten to clarify that owners must occupy either the accessory dwelling unit or the principal home as their permanent residence for six months or more out of each calendar year. The proposed changes also clarify that owners must sign, and DPD must record, a restrictive covenant that runs with the land and is binding on future owners. This will better inform citizens who purchase property with an accessory dwelling unit of the owner occupancy requirements, and eliminates the need for subsequent owners to file owner occupancy certificates with the City. A further provision would allow for release of a recorded covenant upon removal of an accessory dwelling unit.

- Clarifying that a five-foot setback from the entire side yard property line is now required for all new detached accessory dwelling units. This was Council's original intent and the existing code language is not clear.
- Civil enforcement proceedings and penalties for unauthorized accessory dwelling units are proposed to be clarified to apply a civil penalty for unauthorized dwelling units. There is no proposed increase in the civil penalty, but a provision for reduction of the penalty has been dropped, so that the way penalties are assessed is consistent with other types of Land Use Code violations.

Land Use Code amendments require City Council approval. Public comment will be taken on the proposed amendments during future Council deliberations, which will include at least one public hearing.

### **ANALYSIS - SEPA**

This proposal is an adoption of legislation and is defined as a non-project action. The SEPA Ordinance requires a threshold determination for any proposal that meets the definition of action that is not categorically exempt. SMC 25.05.800 does not specifically address whether this action is categorically exempt, and therefore DPD must determine whether the proposal would have any probable significant adverse environmental impact.

Disclosure of impacts from this project is identified in the environmental checklist as a range of potential units. An annual cap could be set on the number of backyard cottages allowed. Regardless if a cap is imposed or what the cap limit would be, the total number of ADUs would fall within the range of 102-124 permits per year and within the range of units analyzed under the SEPA checklist's assessment of environmental impacts. The information in the checklist, a copy of the proposed text changes, the Director's Report and Recommendation and the experience of DPD staff form the basis for this analysis and decision. This is a substantive change to the Land Use Code, to allow homeowners in all single-family zones to either construct a new structure containing a detached accessory unit or modify existing detached accessory structures to allow a second dwelling unit separate from the primary home. This amendment may result in potential impacts and warrants further discussion.

The proposal is a non-project action that does not involve any construction. However, individual projects subject to the provisions of this amendment may be reviewed for their site-specific environmental impacts if the development of a backyard cottage occurs on a lot located in certain Environmentally Critical Areas (ECAs). Development of a single backyard cottage is categorically exempt from SEPA as a permitted single-family accessory structure and would typically involve a Type 1 non-discretionary review of a building permit application, with no public notice. Lower thresholds for SEPA review are established for properties in Environmentally Critical Areas. However, developing a backyard cottage is unlikely to cause total development coverage on a typical site to exceed the single-family threshold of 9,000 square feet for SEPA review in Environmentally Critical Areas, and thus almost all proposed backyard cottages are likely to be exempt from environmental review, unless located on a lot with certain ECA's specified in Section 25.05.908 and involving total development coverage exceeding 9,000 square feet.

Based on trends established by backyard cottages that have been permitted in the Southeast sector of the city since 2006, DPD estimates that Seattle homeowners are likely to build approximately 52 backyard cottages a year, or construction on approximately 0.05 percent of eligible lots. By comparison, DPD issues between approximately 550-650 permits for new single-family units each year (0.44-0.52 percent of single-family lots). Development of backyard cottages is likely to result in minor increases in noise, traffic, and parking impacts on subject sites and the surrounding neighborhood. However, DPD does not consider these impacts to be significant. Permitted residential density will not increase because attached ADU's are currently permitted in all single-family zones, and the option for a backyard cottage will not increase the allowed density. Structural lot coverage will also not increase beyond currently allowed limits, because homeowners are required to include all structures (i.e. both the primary residence and the backyard cottage) in lot coverage calculations.

Required parking will be accommodated on-site. In certain cases homeowners may request that the Director waive the parking requirement, based on recognized site constraints and a neighborhood analysis of on-street parking availability. Considering that the proposed provisions regarding parking for backyard cottages mirrors that required for attached ADUs in the existing code standards, and that individual parking waivers are available only on a case-by-case basis subject to DPD discretion, it is not likely that construction of backyard cottages will result in any significant impacts on parking availability in single-family neighborhoods.

#### Aesthetics

Various development standards limit building bulk in single-family zones, including height limits, lot coverage limits, and building setbacks that create yards. Certain accessory structures are often permitted in yards, including: detached garages, workshops, tool sheds and guest houses containing no food preparation area. Accessory structures are generally prohibited in required front yards, and the proposed legislation would not allow backyard cottages in front yards. Current Land Use Code provisions do allow for accessory structures in rear yards, and certain portions of side yards, subject to limitations on height, floor area, and lot coverage.

The proposed ordinance would require that backyard cottages be allowed only on lots that meet certain dimensional criteria for lot area, width and depth. On sites that are smaller or more constrained, any accessory dwelling unit would be required to be attached to the principal structure (which is already permitted city-wide). This may limit development of backyard cottages that are incongruous with their lots and their principal structures.

The proposed ordinance draws substantially from restrictions to accessory structures in required yards. A detached garage located in a required yard is currently allowed to be 12' tall to the top of wall and 15' to the ridge of a pitched roof, as measured from the entrance to the garage. Depending on lot width, the proposed rules would allow as much as 16' for the base height (23' with pitched roof) of a backyard cottage with a garage underneath. Therefore, it is possible that some backyard cottages would be taller than accessory structures currently allowed.

The proposed regulations allow for structures taller than currently permitted in rear yards. However, the bulk and scale impacts on neighboring properties are sufficiently mitigated by a variety of development standards:

- A cap on backyard cottages could be adopted.
- Varied height limits related to lot width to ensure that backyard cottages would be shorter on narrower lots.
- A cap on gross floor area of 800SF, including garage and storage area.
- The application of height limits on sloping lots (requires structures to follow topography).
- Maximum total lot coverage (including main structure):
  - Lots less than 5,000 sq. ft: 1,000 sq. ft + 15% of lot area; and
  - Lots 5,000 sq. ft. or more: 35 % of the lot area.
  - Lot coverage limitations in the required rear yard.

The proposed bulk and scale limits for backyard cottages do not represent an increase in the overall massing allowed on a typical single-family lot. Instead, the proposed rules are similar to what is currently allowed in Seattle's Land Use Code.

### Land Use

The SEPA checklist identifies Seattle Comprehensive Plan goals that relate to the proposed legislation. The Comprehensive Plan's Land Use element contemplates single-family development consistent with the character of existing neighborhoods, and it encourages the development of housing alternatives that contribute to the enhancement of neighborhoods (LUG 2, LUG 10). Backyard cottages accessory to single-family homes are one such alternative that expands the scope of housing options available to Seattle residents.

Backyard cottages comply with the policies of the Comprehensive Plan by facilitating the following:

- Preservation of existing single-family structures that might otherwise be demolished in order to develop single-family lots to the fullest possible extent. (LUG 9).
- Development of smaller, more affordable ground-related rental housing in the context of stable owner-occupied residential neighborhoods. (LUG 8).
- Greater flexibility and affordability for single-family homeowners. (LUG 8).
- Accommodating a portion of the estimated 47,000 additional households needed in the city over the 20 years covered by the Comprehensive Plan. (HG 1).
- Promoting a mix of housing types attractive and affordable to a diversity of ages, incomes, household types, household sizes, live/work situations and cultural backgrounds. (HG 4).

The proposed ordinance also supports the 2005-2008 Housing Consolidated Plan strategies by assisting homeowners with accessory dwelling units, by helping to produce affordable rental housing, and by helping to encourage private affordable rental housing.

### Greenhouse Gas Emissions

Greenhouse gas (GHG) emissions have also been considered, and no significant changes to GHG emissions are expected. Individual projects that may use the provisions of this proposal will be subject to environmental review (if they meet or exceed thresholds for environmental review) and existing odor and emissions requirements currently contained in the Land Use Code and promulgated by the Puget Sound Clean Air Agency.

Traffic

DPD does not anticipate significant traffic impacts associated with increased numbers of units. Additional traffic resulting from increased numbers of units is not expected to be significant to the overall city-wide network. While the proposed rules are likely to facilitate development that marginally increases residential densities in single-family zones, it is unlikely that the new development would impact congestion at any specific intersection.

Conclusion

The SEPA checklist addresses each of the environmental policies relevant to the proposed ordinance. As confirmed by the experience with backyard cottages in the Southeast sector of Seattle, it is possible to integrate backyard cottages into established single-family neighborhoods. Environmental impacts for development projects exceeding SEPA thresholds will be identified and mitigated as appropriate during project-specific environmental review. Overall, no significant adverse impacts are anticipated from the proposed amendments.

**DECISION – SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

Signature:           (signature on file)            
William K. Mills, Senior Land Use Planner  
Department of Planning and Development

Date: March 19, 2009