

TOWN OF WOODWAY  
COUNCIL MEETING AGENDA  
MONDAY, OCTOBER 17, 2022  
6:00 P.M.

Woodway Town Hall | 23920 113th Place W. | Woodway, WA

- |           |     |   |
|-----------|-----|---|
| 6:00 P.M. |     | Call to Order, Flag Salute, & Roll Call                                 |
| 6:00 P.M. |     | Public Comments*  |
| 6:05 P.M. | I   | Approval of Payments – <i>October 17, 2022 Claims</i>                   |
| 6:10 P.M. | II  | Council Reports   |
| 6:15 P.M. | III | Mayor’s Report  |
| 6:20 P.M. | IV  | Town Administrator’s Report   |
| 6:25 P.M. | V   | Discussion: Unlawful Occupation of Public Property                      |
| 6:45 P.M. | VI  | Discussion: Right-of-Way Permit – Road Cut and Pavement Mitigation Fees |
| 7:00 P.M. | VII | Resolution 2022-440: Surplus Property                                   |
| 7:05 P.M. |     | Public Comments*  |
| 7:10 P.M. |     | General Council Discussion – Choice of Subjects                         |
| 7:15 P.M. |     | Adjournment   |

Note: The next budget discussion and last budget public hearing will be on November 7, 2022

*Council agendas are subject to change before or during the council meetings upon motion. All times are approximate.*

*\*Anyone with a disability requiring special accommodations or anyone wishing to make a public comment for this meeting via video or audio connection should contact the Town Clerk's Office at Town Hall or call (206)542-4443 before 1:00 p.m. the Thursday preceding the Council Meeting. For TDD relay service, call (206)587-5500, or outside the Seattle area #1-800-833-6388.*



TOWN OF WOODWAY  
CLAIMS APPROVAL

“I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein and that the claim is a just, due, and unpaid obligation against the Town of Woodway, Snohomish County, Washington, and that I am authorized to authenticate and certify to said claims.”

\_\_\_\_\_  
Clerk Treasurer

The following transactions are approved for 2022 payment:

Claims checks #13961 through 13971 and EFT #1337 .....\$39,183.01

This 17<sup>th</sup> day of October 2022.

\_\_\_\_\_  
Mayor

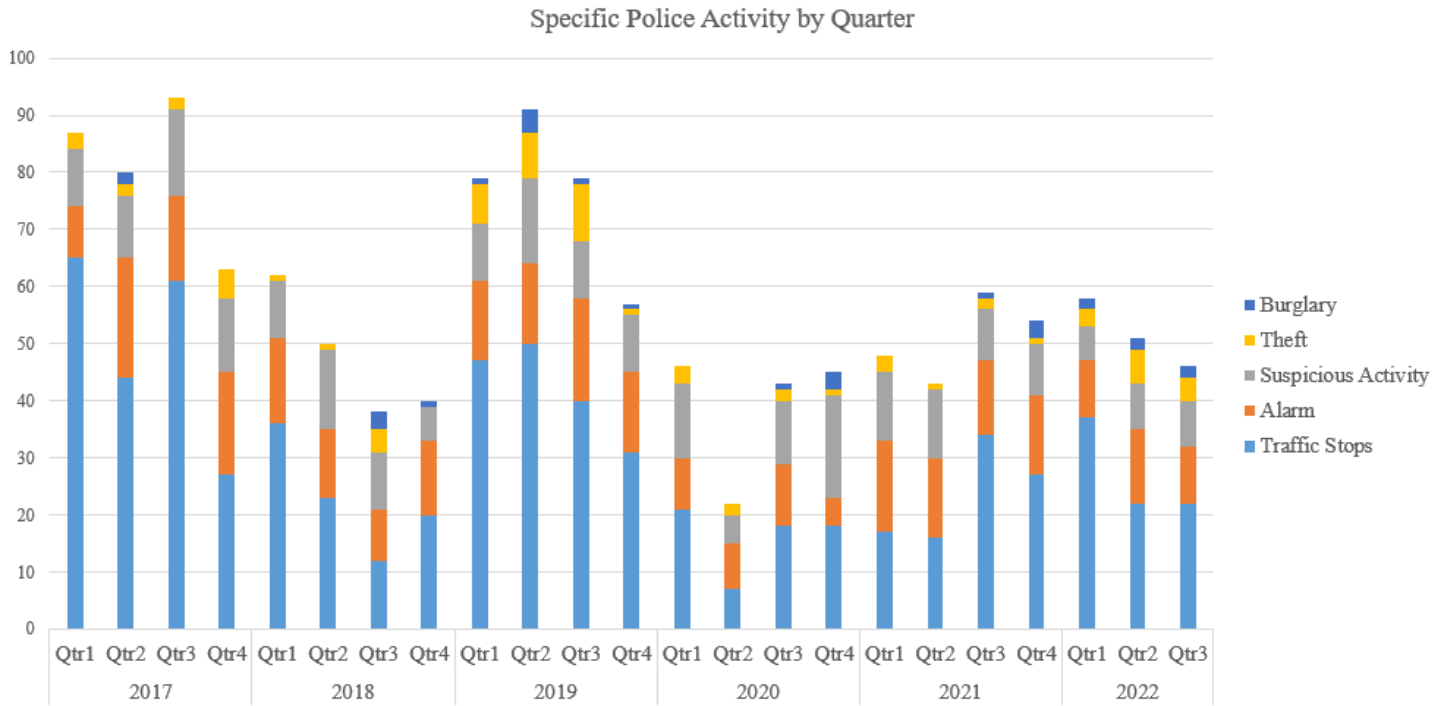
\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

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Councilmember

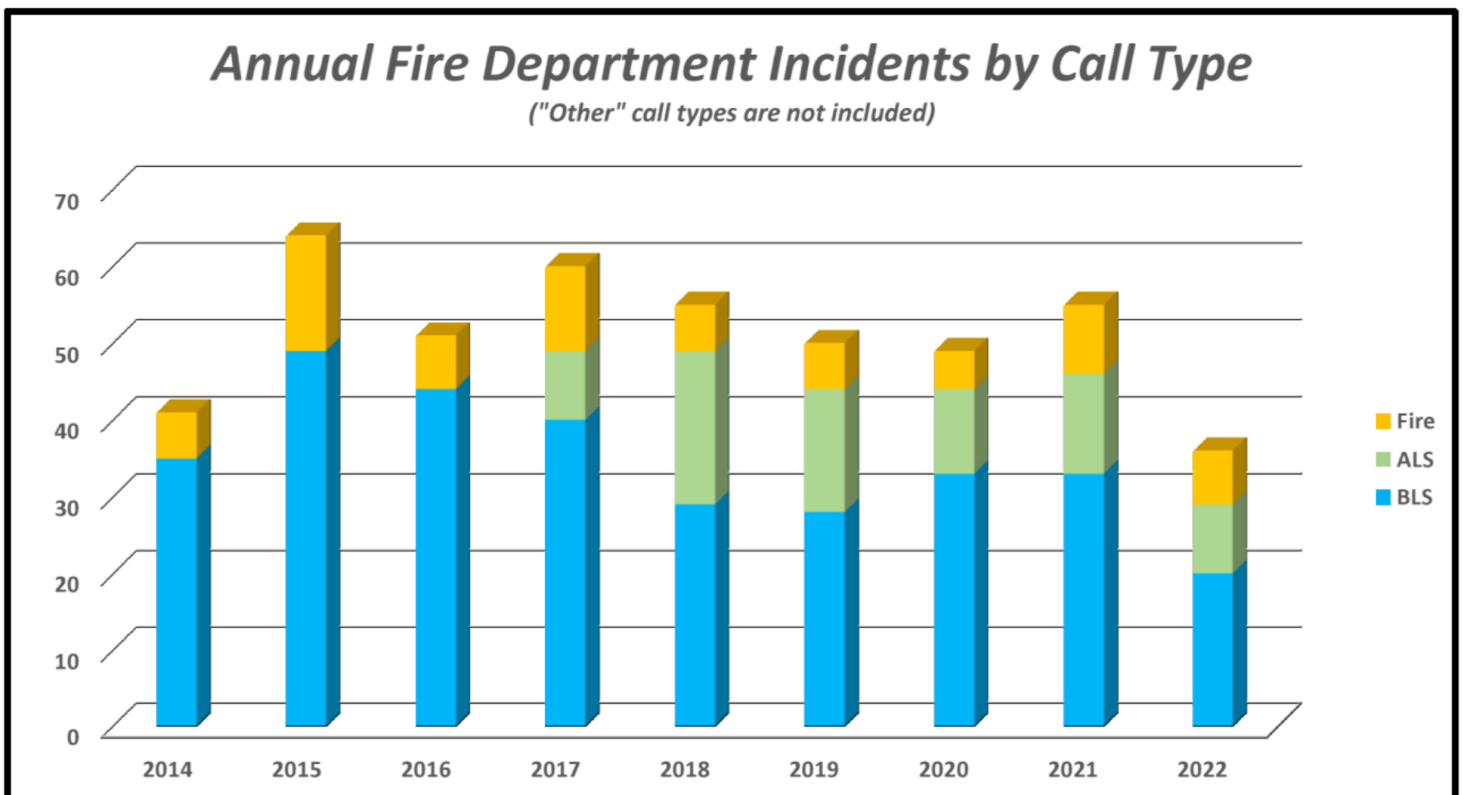
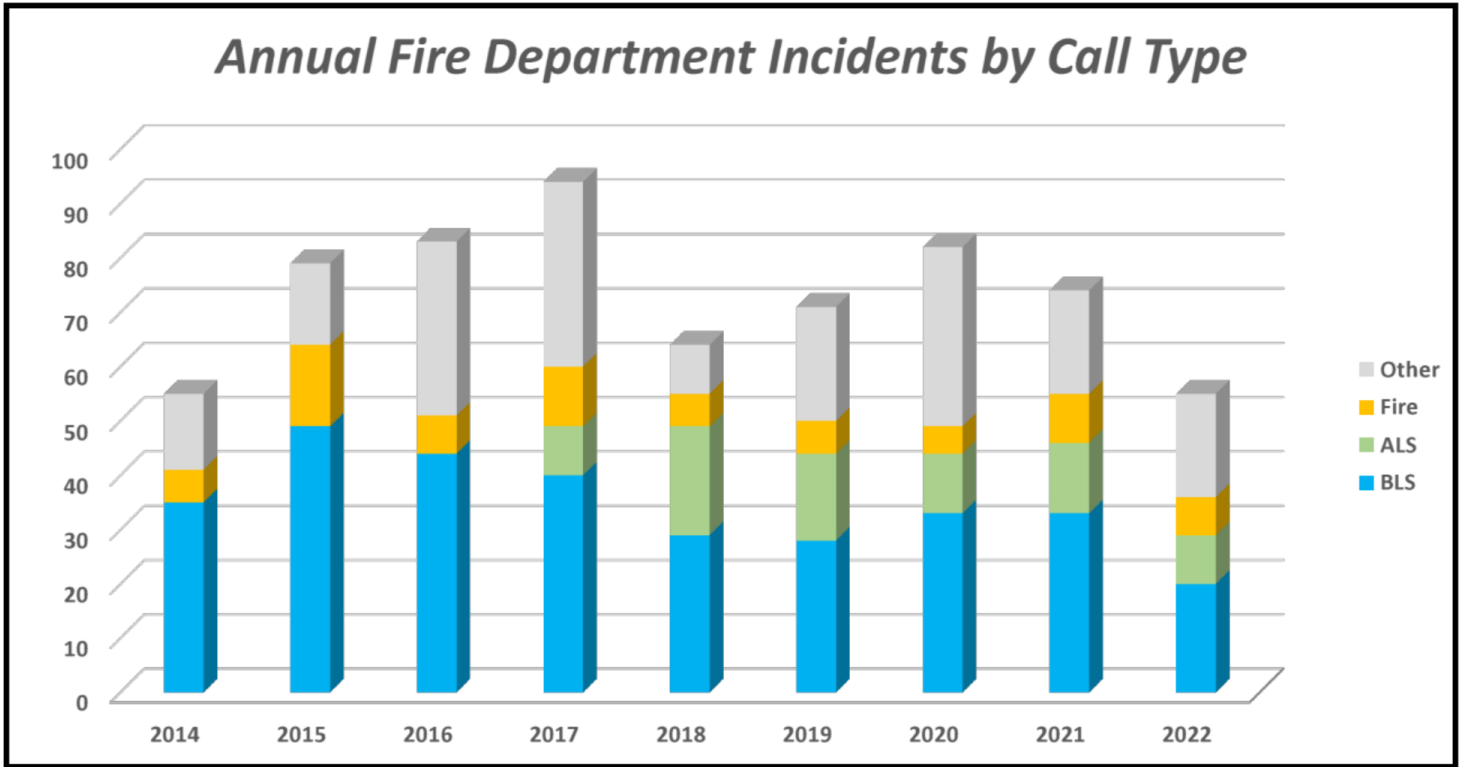
# 2017 THROUGH Q. 3 2022

## POLICE ACTIVITY BY QUARTER

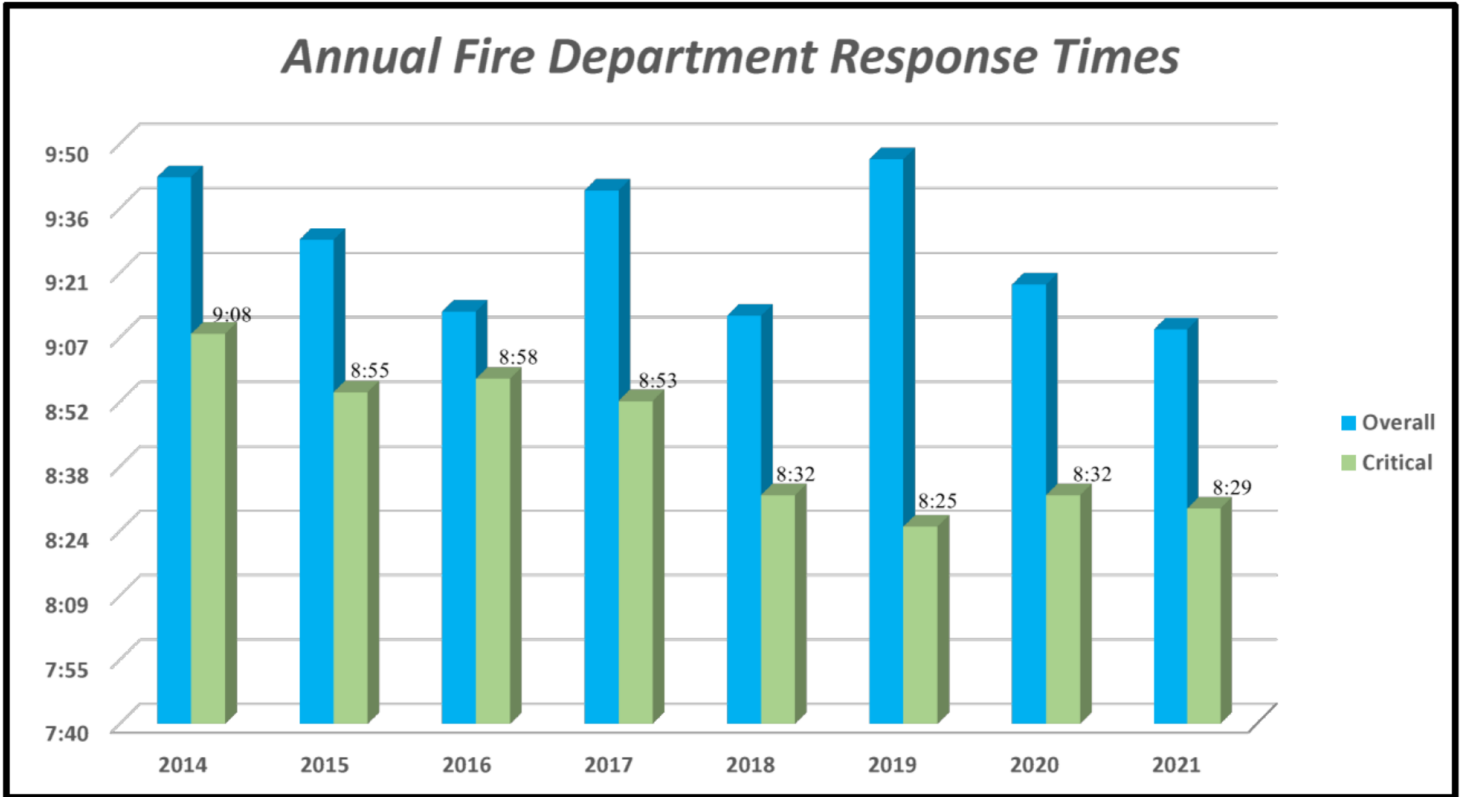


# 2014 THROUGH Q. 3 2022 FIRE/EMS ACTIVITY BY YEAR

Note: 2014-2021 includes the whole year; 2022 includes calls through Q. 3



# 2014 THROUGH 2021 FIRE/EMS RESPONSE TIMES BY YEAR



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## MEMORANDUM

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**TO:** Town Council  
**FROM:** Eric Faison, Town Administrator  
**SUBJECT:** Unlawful Occupation of Town Property  
**DATE:** October 17, 2022  
**CC:** Mike Quinn, Mayor

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### **Background**

Last month, Council discussed a draft ordinance that would amend the Town's municipal code to add a new chapter. The new chapter, 7.14, which is based on a recently enacted City of Edmonds law, would make it unlawful for any person to "occupy" public property or to store personal property on public property overnight. "Occupy" means to evidence an intent to remain in a place, at least overnight. Intent can be shown, for example, by setting up tents, shelter, or bedding.

### **Enforcement**

The proposed ordinance would be enforced by the Town's Police Department. Arguably, enforcement also would be covered under our contract with the City of Edmonds. The contract provides that "Edmonds shall provide all the police services that it provides to its own citizens," with certain identified, inapplicable exceptions. However, this topic was not discussed during contract negotiations.

An important caveat to enforcement of the proposed ordinance is an exception created in response to a federal court ruling related to homelessness. Specifically, the 9<sup>th</sup> Circuit has held that the Eighth Amendment prohibits a jurisdiction from criminalizing homelessness or punishes a person for lacking the means to live out the "universal and unavoidable consequences of being human". Specifically, the Court stated that, as long as there is a greater number of homeless individuals in a jurisdiction than the number of available shelter beds, the jurisdiction cannot prosecute indigent homeless individuals for "involuntarily sitting, lying, and sleeping in public."

Mirroring Edmonds' law, and in compliance with the Court's ruling, the Town's previously presented draft of a law would require that the available overnight shelter space be free of charge and available within 35-miles of Edmonds City Hall. Based on conversations with the Edmonds Human Services Program Manager and Snohomish County's Community and Homeless Services Supervisor, there is very little reliably available emergency bed space in Snohomish County. Determining the availability of overnight shelter space and transporting the person to that space would prove to be a staffing and logistical challenge. And the coordination of response during evenings and on weekends would add a further complication.

The City of Edmonds has a robust homelessness response fund and human services program. In 2020, the City of Edmonds created a Human Services Division and hired a part-time human services program manager in their Parks and Recreation Department. That person is responsible for identifying available shelter space. The City also has a contract with a behavioral healthcare provider. The contract includes staffing to address mental health,

substance use, physical health, and/or social needs (such as shelter/housing, transportation, food, financial, support), and connecting individuals to appropriate resources. These services are provided during typical work hours. I would not expect that these services will be available to the Town without separate contracts.

With the Town's limited police staffing, and the limitation on nearby shelters, I do not believe that we will be able to adequately address illegal camping situations through criminal charges under the code amendment, unless the situation is a truly problematic, reoccurring, or dangerous. And even under those circumstances, enforcement may be difficult.

### **Parking**

The Town's code prohibits continuous parking on any street, street right-of-way, roadway or path for a period in excess of seventy-two hours. Additionally, the Town's code prohibits parking in the parking stalls in front of Town Hall between six a.m. and eight p.m., Monday through Friday, unless the operator of the vehicle is concurrently within Town Hall for a lawful purpose or making lawful use of the adjacent park property. Vehicles in violation of the code are subject to impoundment, and the owner of the vehicle is subject to citation for an infraction.

The code does not directly address sleeping, camping, or living in vehicles parked on Town streets for less than seventy-two hours. The code also does not address vehicles that are simply relocated to other streets, resulting in parking on Town streets in excess of seventy-two hours. If the Council decided to adopt a no-camping ordinance, Council also may want to address camping in vehicles.

### **Conclusion**

With the Town's limited police staffing and limited availability of nearby emergency shelters, I do not believe that we will be able to adequately address illegal camping situations through the criminal code, unless the situation is a truly problematic, reoccurring, or dangerous. And even under those circumstances, enforcement may prove difficult. That being said, I can see the value of having an ordinance in place that clearly and directly addresses those problematic, reoccurring, or dangerous situations, when necessary.

### **Next Steps**

Staff is seeking direction on whether to draft and present an ordinance addressing these issues at the next Council meeting. If so, staff requests direction on any significantly material provisions.

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## MEMORANDUM

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**TO:** Town Council  
**FROM:** Terry Bryant, Public Works Director  
**SUBJECT:** Right-of-Way Permit – Road Cut Fee  
**DATE:** October 17, 2022  
**CC:** Mike Quinn, Mayor

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### **Background**

#### *Permit fees*

Like most cities, the Town requires a permit to perform work in the right-of-way. The permit fee ranges from \$150 to \$350 (depending on the size of the project). For work that involves a cut in a road's pavement, the Town assesses an additional road cut fee.

The Town's road cut fee also includes a fee related to the condition of the pavement being cut. This "pavement mitigation fee" is \$115 plus an amount that is based on the square footage of the cut and the remaining life of the road. Over the years, cuts in the Town's roads have been relatively small. As a result, most pavement mitigation fees have been modest – a few hundred dollars. Only once has the fee been over \$1,000 – at \$1,221.

Lastly, in addition to these two fees, the Town requires the permittee to repave the lane that has been cut. The scope of the repaving is either 10 feet or 50 feet on either side of the cut. The determination on whether the required overlay is 10 feet or 50 feet is based on the remaining life of the road.

### **Purpose of Pavement Mitigation Fee**

Once a road is cut, it is susceptible to water intrusion. A partial overlay of the roadway does not fully restore the roadway's resistance to water intrusion. Consequently, the purpose of the mitigation fee is to compensate the Town for damage to the road that reduces the road's useful life and increases the Town's maintenance cost. At our last meeting on this topic, we indicated that we would do additional research on the reasonableness of the Town's road cut fee, particularly within the context of an extensive repaving project.

### **Town Code and Fee Schedule**

#### *WMC 12.50.080 – Road cut fee.*

A road cut fee as set forth in Section 3.32.010 shall be required whenever the pavement in the right-of-way is disturbed. Pavement restoration shall be made according to specifications prepared by the Public Works Director and shall include well-placed and compacted select backfill and multiple-lift asphaltic concrete paving.

- A. For roads that have been overlaid within five years and roads that have been reconstructed within seven years and in the event that the road needs to be cut, the following conditions shall be applied:
  - 1. A one-hundred-foot section (fifty feet in each direction from the edge of the cut) shall be overlaid.
    - a. If the cut is contained to one lane, then only that lane shall be overlaid.



- b. If the cut transverses into both lanes, then the entire width of the road shall be repaired.
- 2. The fifty feet in either direction shall require a grinding down one and one-half to two inches and a tapered inlay replacement.
- 3. The replacement is to be to the current standards in the right-of-way standard conditions with one exception. The exception from the standard conditions shall be to expand the one foot back from trench to two feet back from trench.

B. All other road surfaces shall have the same requirements with the exception of a twenty-foot (ten feet in each direction from the edge of the cut) inlay.

C. If the road surface is in the Town’s six-year street plan for an overlay or reconstruction, the requirement may be waived.

*Right-of-Way Permit Fees*

- 1. Right-of-Way – Homeowner \$150 + costs (includes one ROW inspection).
- 2. Right-of-Way – Minor Utility \$250 + costs (includes one ROW inspection).
- 3. Right-of-Way – Major Utility \$350 + costs (includes one ROW inspection).
- 4. Additional ROW Inspections \$75 for each inspection.
- 5. Road Cut Permit \$115 plus pavement mitigation fee:

Approximate Remaining Years	Fee per sq. ft.
▪ 0-4 Years	No fee
▪ 5-7 Years	\$4.50
▪ 8-10 Years	\$6.50
▪ 11-15 Years	\$9.50
▪ 16+ Years	\$12.50

**Recommendation**

While we are aware of some cities locally who, like Woodway, require an overlay and impose a pavement mitigation fee, we know that others do not. In fact, in researching this issue, we found that almost half of the cities surveyed do not require a fee. In those cities that require a fee, there is not a lot of consistency in the amount of the fee.

We believe that our fee is reasonable for smaller projects (less than 1,000 square feet) and projects that require a cut into a recently paved street. However, we would recommend a lower fee for larger projects (1,000 feet or more), projects that occur on streets with a shorter useful life, and for projects that involve repaving the entire street.

*Road Cut Permit Fee*

We would propose that the \$115 Road Cut Permit Fee be changed to reflect the difference in the amount of staff work required for larger projects compared to smaller projects.

- Class A Project (a cut of 1,000 square feet or more and/or a project that includes work on multiple streets): \$500

- Class B Project (a cut of less than 1,000 square feet and all work is on the same street): \$115

### *Pavement Mitigation Fee*

We would propose the following changes:

- All projects on streets that have been overlayed within the past five years: \$12.50/s.f.
- If the street has not been overlayed within the last five years, but has ten or more years useful life, the pavement mitigation fee for a Class A project is \$3.50/s.f. and for a Class B project is \$4.75/s.f.
- If the street has not been overlayed within the last five years and has less than 10 years useful life, there is no pavement mitigation fee.
- The Director may waive fee where the permit requires the entire width of the road to be repaved.

### *Examples*

For a Class A project that involves multiple streets and is greater than 1,000 square feet:

Major Utility - \$350

Road Cut Fee - \$500

Road A: 4500 s.f. – More than 5 years since the last overlay and 10 years of useful life - \$3.50/s.f. = \$15,750

Road B: 4500 s.f. – Overlay 4 years ago @ \$12.50 per square foot = \$56,250

Road C: 1500 s.f. – 8 years of useful life = No Fee

**Total Fee: \$72,850**

For a Class B project that involves a 3x5 asphalt cut (the majority of asphalt cuts are this size):

Major Utility - \$350

Road Cut Fee - \$115

Road A: 15 s.f. - More than 5 years since the last overlay and 10 years of useful life - \$4.75/s.f. = \$71.25

**Total Fee: \$536.25**

For a Class B project that involves a 3x5 asphalt cut (the majority of asphalt cuts are this size):

Major Utility - \$350

Road Cut Fee - \$115

Road A: 15 s.f. - Overlay 3 years ago - \$12.50/s.f. = \$187.50

**Total Fee: \$652.50**

### **Next Steps**

Following Council discussion, staff will draft an ordinance and any necessary amendments to the fee schedule to submit for Council approval in November.

**TOWN OF WOODWAY**

**RESOLUTION 2022-440**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WOODWAY,  
WASHINGTON, PROVIDING FOR THE SURPLUSING AND DISPOSITION OF CERTAIN  
PROPERTY AS HEREIN DESCRIBED.

WHEREAS, the Town of Woodway has identified certain property that is no longer useful to the  
Town; and

WHEREAS, the surplus property is valued as listed in Exhibit A;

NOW, THEREFORE, the Town Council of the Town of Woodway does hereby resolve as follows:

Section 1. The items identified in Exhibit A are hereby declared surplus and shall be sold or  
disposed of.

Section 2. The Clerk-Treasurer, under the supervision of the Mayor, may dispose of these  
items in a reasonable fashion. If the item has a cash value, staff should make an  
effort to sell them for the market value.

PASSED this 17<sup>th</sup> day of October 2022 by the Town Council of the Town of Woodway.

TOWN OF WOODWAY

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Michael S. Quinn, Mayor

ATTEST:

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Heidi K. S. Napolitano, Clerk-Treasurer

**TOWN OF WOODWAY**

**RESOLUTION 2022-440 | EXHIBIT A**

Items with de minimis value to be disposed of

1. 2013 Konica Minolta bizhub C364e copier/printer/scanner/fax

Draft