

# TOWN OF WOODWAY COUNCIL MEETING AGENDA

MONDAY, JUNE 3, 2024  
6:00 P.M.

Woodway Town Hall | 23920 113<sup>th</sup> 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>June 3, 2024 Claims; May 2024 Payroll</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   | Floodplain Regulations - <i>Bill Trimm</i>                              |
| 6:40 P.M. | VI  | Short-Term Rentals - <i>Bill Trimm</i>                                  |
| 6:50 P.M. | VII | Olympic View Water & Sewer District - <i>General Manager Bob Danson</i> |
| 7:10 P.M. |     | Public Comments*  |
| 7:15 P.M. |     | General Council Discussion – Choice of Subjects                         |
| 7:20 P.M. |     | Meeting Ends  |

*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.”

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Clerk Treasurer

The following transactions are approved for 2024 payment:

Claims checks #15000 through 15012 and EFTs #715 through 718.....\$51,016.16

This 3<sup>rd</sup> day of June 2024.

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Mayor

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Councilmember

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Councilmember

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Councilmember

\*Note: several large items are being paid

- \$12,210.25 for installation of curbing
- \$5,096.63 for maintenance on Public Works equipment
- \$5,538.50 for legal services
- \$5,698.33 for engineering services including \$4,847.83 in reimbursable development review
- \$12,076.25 for Town Planner services including \$5,703.75 for general planning work (code update prep, meetings/communications) and \$5,655.00 for work on the Comp Plan update

\*The three largest charges on the credit card bill are:

1. \$1,586.22 – new laptop for Town Administrator
2. \$319.35 – fireplace maintenance
3. \$468.70 – Fuel: (PD – \$63.96; PW - \$354.16)



TOWN OF WOODWAY  
PAYROLL 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.”

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Clerk-Treasurer

The following May 2024 Payroll transactions, for 7.62 FTE, are approved for 2024 payment:

EFT transactions #637, 688 through 708.....\$102,606.60

This 31<sup>st</sup> day of May 2024

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Mayor

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Councilmember

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Councilmember

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Councilmember

\* There were 3.5 comp time hours accrued in May 2024

\*Note: payroll costs are larger than normal due to the end-of-employment payments for a departing employee

**TOWN OF WOODWAY  
PLANNING COMMISSION**

**RESOLUTION PC-2024-008**

A RESOLUTION OF THE WOODWAY PLANNING COMMISSION RECOMMENDING TO  
THE TOWN COUNCIL APPROVAL OF AMENDMENTS TO THE ZONING ORDINANCE  
REGARDING FLOODPLAIN REGULATIONS (WMC 14.70, 14.71 AND 14.08)

WHEREAS, the Washington State Growth Management Act provides for the update, review, and revision of Comprehensive plans and development regulations to comply with the requirements of the Growth Management Act, legislative changes and best available science information; and

WHEREAS, the Town of Woodway updated its comprehensive plan consistent with the most recent periodic review set forth in RCW 36.70A.130; and

WHEREAS, Woodway's development regulation to implement the comprehensive plan has been updated for wetlands and geological hazard areas but not for frequently flooded areas; and

WHEREAS, the FEMA FIRM maps indicate that portions of the Town's MUGA (Point Wells) is within a special flood hazard zone; and

WHEREAS, if the Town Council considers annexing point Wells in the future it is prudent to ensure that land and structures within the flood hazard zones are protected from inundation by the administration of floodplain regulations; and

Whereas, Snohomish County has adopted floodplain regulations applicable to the unincorporated areas of the County and should the Town Council act to annex Point Wells it would be appropriate to have similar regulations in the Town to provide land owners with a seamless transition of floodplain regulatory measures; and

Whereas, the Planning Commission reviewed the proposed floodplain regulations in May 2023 and again in January 2024; and

WHEREAS, the proposed amendments are consistent with the goals and policies of the Conservation Element of the Town's Comprehensive Plan; and

WHEREAS, a Notice of Adoption of proposed amendments was sent to the Department of Commerce on January 8, 2024; and

WHEREAS, a SEPA Declaration of Non-Significance was issued on January 8, 2024; and

WHEREAS, a notice of public hearing was advertised in the Everett Herald newspaper, posted on Town bulletin boards, and posted on the Town's website on January 8, 2024; and

WHEREAS, the Planning Commission conducted a public hearing on April 17, 2024; and

WHEREAS, the staff report attached hereto as Exhibit A includes findings and conclusions and a recommendation of the proposed amendments to the Town Council.

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

Section 1. The Planning Commission adopts the staff report attached hereto as Exhibit A, including attachments containing regulations for Flood Hazard Areas, Flood Hazard Permits and definitions related to floodplains amendments as amended by the Planning Commission (WMC 14.70., 14.71 and 14.08), and recommends to the Woodway Town Council that the proposed amendments be adopted.

PASSED by a vote of four in favor and zero opposed this 17th day of April 2024 by the Planning Commission of the Town of Woodway.

TOWN OF WOODWAY

  
\_\_\_\_\_  
Per Odegaard, Chair

ATTEST:

  
\_\_\_\_\_  
Kim Sullivan, Planning Commission Secretary

Attachments:

Exhibit A: Staff Report to the Planning Commission Regarding Proposed Amendments to the zoning code regarding floodplain regulations (WMC 14.70, 14.71 and 14.08)

Exhibit B: WMC 14.70

Exhibit C: WMC 14.71

Exhibit D: WMC 14.08

## Exhibit A

### Staff Report to the Town of Woodway Planning Commission Regarding Proposed Zoning Code Amendments Related to Floodplain Regulations

#### Part 1: Introduction

<b>Applicant:</b>	Town of Woodway 23920 113 <sup>th</sup> Place W. Woodway, WA 98020
<b>Public Hearing Date:</b>	April 17, 2024
<b>Public Hearing Purpose:</b>	For the Planning Commission to receive public comments on proposed zoning code amendments regarding floodplain regulations (WMC 14.70 and 14.71), added definitions (14.08) and forward a recommendation to the Town Council for action.
<b>Location of Proposal:</b>	The proposed amendments are applicable to the geographic area contained in the Woodway corporate limits and the <i>Woodway Municipal Urban Growth Area</i> . The area includes the entire Town corporate limits and approximately 61 acres of the waterfront area referred to as “Point Wells”. The proposed amendments affecting the Point Wells area will only apply upon annexation to the Town.
<b>SEPA Compliance:</b>	Pursuant to WMC 16.04., A determination of non-significance was issued on January 8, 2024, forwarded to the Town’s SEPA distribution list and noticed in the Everett Herald.
<b>Public Notification:</b>	A public notice for the public hearing and notice of application was advertised in the Everett Herald, posted in several public places within the Town of Woodway on April 4, 2024, and April 5, respectively. A “notice of intent to adopt amendment” (60-day notice) was sent to the Washington State Department of Commerce on January 8, 2024.

#### Part II: Background Information

The Washington State Growth Management Act (GMA) requires jurisdictions planning under the Act to prepare critical area regulations to conserve and protect the natural environment, wildlife habitats and safe drinking water. The Act defines five types of critical areas including wetlands, aquifer recharge areas including streams, fish and habitat conservation areas, frequently flooded areas and geological hazard areas.

The Town's Critical Area Regulations were updated in 2020 to address new information available from the state related to wetlands and in 2022 to address geologic hazard areas. The Town has not prepared floodplain regulations in the past since the major land area subject to flooding is currently located outside the Town boundaries (Point Wells) and within the Municipal Urban Growth Area (MUGA). However, as the Town considers the possibility of annexing Point Wells in the future it is prudent to prepare floodplain regulations that would be applicable to the area if annexed.

The Snohomish County floodplain regulations currently apply to all unincorporated land in the county including the Town's MUGA. If annexation does occur and to afford the property owners with a seamless transition to the same regulatory requirements applicable in the County, the Town has modified and adapted the county regulations to be applicable to Woodway.

Except for references to floodplain regulations for farming areas, density fringe areas (Stillaguamish and Snohomish Rivers) and resource lands, the majority of the County code sections are incorporated and codified into the Town's development code. Three new code sections to the Town's zoning ordinance will address specific floodplain regulations (WMC 14.70), the administration of the regulations (WMC 14.71) and relevant definitions (14.08).

The spatial extent of floodplain areas is defined by the Federal Emergency Management Administration (FEMA) Flood Insurance Rating Maps (FIRM). These maps depict areas subject to Special Flood Hazard Areas (SFHA) defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. In Woodway and its (MUGA), the SFHAs are only designated for the coastal shoreline area and a portion of Point Wells. (Please see the last page of Exhibit B for the Special Flood Hazard Zone Areas map.) Deer Creek and the two small intermittent creeks on the upper bluff are currently not designated as SFHAs. If however, one or all of these creeks are designated as SFHAs in the future, the proposed ordinances would cover these creeks as well.

Part III below presents a summary of the key code sections. A complete text of the proposed amendments is attached to the staff report as Exhibits B, C and D.

### **Part III: Proposed Amendments**

**14.70.030-050 Federal Emergency Management Administration and Special Flood Hazard Zones** – These sections identify FEMA and establish the Federal Insurance Rating Maps (FIRM) as the spatial extent

of the 100-year floodplain in the town and its MUGA. If Point Wells is annexed, the special flood hazard zone map will be included in the Town's zoning ordinance.

**14.70.070 -075 Floodplain Administrator and Duties** – The director (Town Administrator or his/her designee) reviews and administers all permit applications consistent with the provisions of a separate code section (WMC 14.71).

**14.70.100-130 Floodproofing Data and Standards** – These sections establish the base elevation of 100-year flood and provide standards to elevate any structures at least one foot above the base elevation. The floodproofing of utilities, mechanical equipment and floodproofed construction materials are also prescribed to reduce flood related damage. Both general and specific floodproofing standards are prescribed for various special flood hazard zones. The Woodway shoreline and Point Wells are in zone AE with a base flood elevation of 12 feet. (Please see the maps on the last page of Exhibit B).

**14.70.130-160 Elevation and Floodproofing Certifications** – As part of the review process for a development application in a special flood hazard zone, the Town administrator must verify that all floodproofing standards and base elevations standards provided by FEMA have been satisfied. A certification form must be prepared, including relevant elevation data prepared by qualified professionals and maintained by the administrator.

**14.70.200-210 Flood Fringe Areas** – These are areas outside of the designated floodway that could be inundated to store floodwaters and debris from a flood event. Although commonly associated with larger rivers, it could also apply to flood hazard zones in the Town and Point Wells.

**14.70. 220-230 Floodways: Permitted and Prohibited Uses** – The floodway is the same area designated as special flood hazard zones listed on the FEMA FIRM maps. Section 220 defines the permitted uses that are listed in the underlying zone districts. Within the current Town boundaries, the limited coastline area is zoned for R-87 uses and the MUGA for Urban Village uses. Section 230 lists prohibited uses including any structure used for human habitation or encroachments that would increase flood levels.

**14.70.240-290 Non-Conforming Uses and Structures** – These sections include standard non-conforming use standards similar to the Town's



existing zoning regulations. Non-conforming uses cannot be expanded and can be changed to other conforming uses allowed in the underlying zone district. If the nonconforming use is discontinued for a period of 12 consecutive months, the nonconforming use is terminated. Nonconforming uses can be restored within six months of accidental damage (fire, explosion, natural disaster) consistent with applicable flood proofing.

**14.70.300 Flood Hazard Zone** – This section illustrates the flood hazard zones for Woodway as provided by FEMA and its FIRM maps.

#### **Part IV Findings and Conclusions**

1. The Washington State Growth Management Act requires development regulations to be periodically updated to reflect changes in legislation and/or conditions affecting local governments.
2. The Woodway Town Council submitted a notice of intent with the Snohomish County Boundary Review Board to annex the MUGA (Point Wells) in October 2023.
3. On January 10, 2024, the Snohomish County Council passed a resolution not to invoke jurisdiction of the Snohomish County Boundary Review Board enabling the Town Council to consider taking action on the annexation.
4. If the Town Council acts to annex Point Wells in the future it is prudent to amend the Town's zoning ordinance to ensure that land and structures are protected from periodic flooding and provide a seamless regulatory transition.
5. The Woodway Planning Commission reviewed the draft floodplain regulations in May 2023 and January 2024.
6. A public hearing has been scheduled and duly noticed for a public hearing before the Planning Commission on April 17, 2024, to receive public testimony.
7. A SEPA Determination of Non-Significance was issued on January 8, 2024, and no appeals have been received.
8. Staff has prepared a notice of application that was posted and advertised in the Everett Herald on April 2, 2024, sent a 60-day Notice of Code Amendments to the Department of Commerce on January 8, 2024, and advertised in the Everett Herald for the public hearing on April 17, 2024.
9. The proposed amendments to Title 14 at WMC 14.70, 14.70 and 14.08 are in the best interest of the general health, safety and

welfare and the public interest of the Town's residents and properties.

**Part V Recommendation**

Based on the above findings and conclusions, staff recommends to the Planning Commission the adoption of revisions to the zoning ordinance related to floodplain regulations, the administration of such regulations and selected floodplain related definitions as set forth in Resolution and attachments thereto.

**Attachments:**

Planning Commission Resolution PC-2024-008  
Exhibit B- WMC 14.70  
Exhibit C- WMC 14.71  
Exhibit D: WMC 14.08

## WMC CHAPTER 14.70: SPECIAL FLOOD HAZARD AREAS

### Sections:

14.70.010	Purpose and applicability.
14.70.020	Intent.
14.70.030	National Flood Insurance Program.
14.70.040	Special flood hazard areas established.
14.70.050	Identification on official zoning maps.
14.70.060	Existing easements, covenants, and deed restrictions.
14.70.070	Designation of the floodplain administrator.
14.70.075	Duties and responsibilities of the floodplain administrator.
14.70.100	Floodproofing: use of available data.
14.70.110	Floodproofing: general standards.
14.70.120	Floodproofing: specific standards.
14.70.125	General requirements for all crawlspace construction.
14.70.130	Elevation and floodproofing certification.
14.70.140	Certification form.
14.70.150	Information to be obtained.
14.70.160	Certification responsibility.
14.70.200	Floodway fringe areas: permitted uses.
14.70.210	Floodway fringe areas: prohibited uses.
14.70.220	Floodways: permitted uses.
14.70.230	Floodways: prohibited uses.
14.70.240	Continuation of nonconforming uses and structures.
14.70.250	Nonconforming uses.
14.70.260	Discontinuance.
14.70.270	Restoration.
14.70.280	Nonconforming structures.
14.70.290	Enforcement.
14.70.300	FEMA Flood Insurance Rate Maps

### **14.70.010 PURPOSE AND APPLICABILITY.**

The purpose of this chapter is to protect the public health, safety and welfare in those areas subject to periodic inundation due to flooding, and to minimize losses due to flood conditions in the specific areas subject to this chapter by utilizing the methods and provisions set forth herein. The regulations set forth herein shall apply to all development in special flood hazard areas as defined in this title within the Town of Woodway.

### **14.70.020 INTENT.**

This chapter restricts uses and regulates structures to those that are consistent with the degree of flood hazard. The intent of this chapter is:

- A. To minimize loss of life and property by restricting uses and regulating development in special flood hazard areas;
- B. To alert the county assessor, appraisers, owners, potential buyers and lessees to the natural limitations of the flood plain;
- C. To meet the minimum requirement of the national flood insurance program; and

D. To implement state and federal flood protection programs.

**14.70.030 NATIONAL FLOOD INSURANCE PROGRAM.**

This chapter incorporates the minimum flood plain management standards and regulations of the National Flood Insurance Program (NFIP). The enactment of this chapter is a necessary prerequisite for the Town's eligibility in the NFIP.

**14.70.040 SPECIAL FLOOD HAZARD AREAS ESTABLISHED.**

- A. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "the Flood Insurance Study (FIS) for Snohomish County, Washington, and Incorporated Areas," dated June 19, 2020, with accompanying Flood Insurance Rate Maps (FIRMs) dated June 19, 2020, are adopted herein by reference and declared to be a part of this chapter and are hereby established as special flood hazard areas for the purposes of this chapter. The FIS and FIRMs are on file at the Woodway Town Hall at 23920 113<sup>th</sup> Place W, Woodway, Washington 98020.
- B. When base flood elevation for A and V zones has not been provided under subsection A of this section, the best available information for flood hazard area identification described in WMC 14.70.075(C) shall be the basis for regulation in those zones.

**14.70.050 IDENTIFICATION ON OFFICIAL ZONING MAPS.**

In order to assist the public in identifying those properties within special flood hazard areas, the geographic extent of the areas shall generally be depicted upon the Town's official zoning map. Said depiction shall be provided for informational purposes only.

**14.70.060 EXISTING EASEMENTS, COVENANTS, AND DEED RESTRICTIONS.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**14.70.070 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.**

The director is designated as the floodplain administrator and shall administer, implement, and enforce this chapter by granting or denying flood hazard permits under WMC Chapter 14.71 consistent with applicable regulations. The floodplain administrator may delegate authority to implement WMC Chapter 14.71 and this chapter.

**14.70.075 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The duties of the floodplain administrator shall include:

- A. Review all permits for development regulated by this chapter to determine that:
  - 1. The requirements of WMC Chapter 14.71 and this chapter have been satisfied;
  - 2. All other required state and federal permits have been obtained;
  - 3. The proposed development is not located in the floodway. If the development is located in the floodway, assure the provisions of WMC 14.70.230(A)(2) are met;
  - 4. The proposed development is reasonably safe from flooding.
- B. Notify FEMA when annexations occur in the special flood hazard area.
- C. When base flood elevation has not been provided in A or V Zones under WMC 14.70.040, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source to administer WMC 14.70.120, 14.70.220, and 14.70.230.

D. Obtain and maintain the following information:

1. Where base flood elevation is provided through the FIS, FIRM, or based on information obtained under subsection C of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially-improved structures, and whether the structure contains a basement.
2. In V and VE zones, documentation of the bottom of the lowest horizontal structural member.
3. For all new or substantially-improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or based on information obtained under subsection C of this section:
  - a. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and
  - b. Maintain the floodproofing certifications required in WMC 14.70.130.
4. Certifications required by WMC 14.70.230(A)(2).
5. Records of all decisions regarding flood hazard area variances under WMC Chapter 14.50.
6. Improvement and damage calculations for residential and nonresidential structures located in the special flood hazard area.
7. Maintain for public inspection all records pertaining to the provisions of WMC Chapter 14.71 and this chapter which include:
  - a. floodproofing certificates;
  - b. information on the elevation of the lowest floor for all new or substantially improved structures;
  - c. whether new or substantially improved structures contain a basement; and
  - d. whether new or substantially improved structures are floodproofed and the elevation to which they are floodproofed.

E. Whenever a riverine watercourse is to be altered or relocated:

1. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a riverine watercourse, and submit evidence of such notification to the Federal Insurance Administrator; and
2. Assure that the flood carrying capacity of the altered or relocated portion of said riverine watercourse is maintained.

**14.70.100 FLOODPROOFING: USE OF AVAILABLE DATA.**

- A. In all special flood hazard areas where base flood elevation data has been provided in accordance with WMC 14.70.040, or where the Town can reasonably utilize base flood elevation data available from federal, state, or other sources, the specific flood hazard protection standards of WMC 14.70.120 and WMC 14.70.230 shall be required.
- B. In all special flood hazard areas where base flood elevation data has not been provided, the Town shall review all development proposals in accordance with WMC 14.70.110 general standards and WMC 14.70.120 specific standards and shall require compliance with the standards of said sections as necessary to assure that development will be reasonably safe from flooding. The test of reasonableness shall include use of historic data, high water marks, photographs of past flooding, etc., where available. New construction and substantial improvement of any residential or nonresidential structure in an Unnumbered A

zone for which a base flood elevation is not available shall have the lowest floor, including basement, elevated a minimum of two feet above the highest adjacent grade.

- C. In areas where base flood elevation data has been provided, when a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within AE zoned areas on the applicable FIRM, unless the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the jurisdiction of the Town.

#### **14.70.110 FLOODPROOFING: GENERAL STANDARDS.**

The following regulations shall apply in all special flood hazard areas.

##### **A. Anchoring.**

1. All new construction and substantial improvements, including those related to mobile homes, shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Anchoring methods may include use of over-the-top or frame ties to ground anchors.

##### **B. Construction materials and methods.**

1. All new construction and substantial improvements shall use materials and utility equipment resistant to flood damage;
2. All new construction and substantial improvements shall use methods and practices that minimize flood damage; and
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

##### **C. Utilities.**

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. Except as otherwise provided in this subsection, water wells are prohibited in the floodway and shall be located where not subject to ponding.
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- D. Enclosed area below the lowest floor. If structures or mobile homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

##### **E. Subdivision proposals. All subdivision and short subdivision proposals shall:**

1. Be consistent with the need to minimize flood damage;
2. Have roadways, public utilities, and other facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage or eliminate flood damage;

3. Have adequate drainage provided to reduce exposure to flood damage; and
  4. Include the base flood elevation data.
- F. Watercourse alterations. The flood carrying capacity within altered or relocated portions of any watercourse shall be maintained. Prior to the approval of any alteration or relocation of a watercourse in riverine situations, the director shall notify adjacent communities and the State Department of Ecology, and submit evidence of such notification to FEMA of the proposed development.

#### **14.70.120 FLOODPROOFING: SPECIFIC STANDARDS.**

In all special flood hazard areas where base elevation data has been provided as set forth in WMC 14.70.100, the following regulations shall apply, in addition to the general regulations of WMC 14.70.110:

- A. All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are permanently affixed to a structure and which may be subject to floodwater damage shall be elevated a minimum of one foot above the base flood elevation or higher (unless within an approved watertight structure).
- B. Residential construction.
  1. In AE and A1-30 zones or other A zoned areas, where the base flood elevation has been determined, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Mechanical equipment and utilities shall be waterproof or elevated at least one foot above base flood elevation.
  2. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in WMC 14.70.290.
  3. New construction and substantial improvement of any residential structure in a V, V1-30, or VE zone shall meet the requirements in WMC 14.70.295.
  4. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
    - b. The bottom of all openings shall be no higher than one foot above the interior and exterior lowest grades;
    - c. Openings may be equipped with screens, louvers, or other coverings or devices only if they permit the automatic entry and exit of floodwaters; and
    - d. A garage attached to a residential structure, that is constructed with the garage floor slab below the base flood elevation, shall be designed to allow the automatic entry and exit of floodwaters.
- C. Nonresidential construction. New construction and substantial improvements of nonresidential structures shall comply with either subsection (C)(1) or (C)(2) of this section:
  1. Be elevated consistent with the following standards:
    - a. In AE or unnumbered A zoned areas where the base flood elevation has been determined, structures shall have the lowest floor, including basement, elevated one

foot or more above the base flood elevation, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the base flood elevation, or as required by ASCE 24, whichever is greater.

- b. In AO zones, structures shall meet the requirements of WMC 14.70.290.
  - c. In V or VE zones, structures shall meet the requirements of WMC 14.70.290.
  - d. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters and they comply with WMC 14.70.110(D). Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - i. A minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - ii. The bottom of all openings shall be no higher than one foot above grade; and
    - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. Be dry floodproofed so that below one foot or more above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater. The following standards also apply:
- a. Structural components shall be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - b. The structure shall be certified by a registered professional engineer or architect that the design and methods of construction meet accepted standards of practice and satisfy the provisions of subsection (C)(2) of this section based on their development or review of the structural design, specifications, and plans. The certifications shall be provided to the director pursuant to WMC 14.70.130.
- D. Mobile homes.
- 1. All mobile homes that are placed or substantially improved in special flood hazard areas shall be elevated on a permanent foundation and shall be securely anchored to an adequately anchored foundation system in accordance with WMC 14.70.110(A)(2) to resist flotation, collapse and lateral movement, and shall have the lowest floor elevated a minimum of one foot above the base flood elevation.
- E. Critical facilities as defined in WMC 14.08.082 shall have the lowest floor elevated to three feet or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood plain shall be provided to all critical facilities to the extent possible.
- F. When fill is permitted to be used as an elevation/floodproofing technique, it shall be designed and installed so that it is properly compacted, sloped, and armored to resist potential flood velocities, scouring, and erosion during flooding.
- G. Flood hazard permits issued for wet floodproofing of any structure or for elevated structures having enclosures below the elevated structure that are wet floodproofed shall be subject to a standard permit condition prohibiting human habitation. The conditions shall be recorded on title on a form approved by the Town Administrator.



#### **14.70.125 GENERAL REQUIREMENTS FOR ALL CRAWLSPACE CONSTRUCTION.**

A. Crawlspace may be used to elevate a building in a special flood hazard area to or above the standards specified in WMC 14.70.120 if the space is designed to meet the following National Flood Insurance Program requirements, which apply to all crawlspaces that have enclosed areas or floors below the base flood elevation:

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings discussed in subsection (A)(2) of this section. Crawlspace construction is not recommended in areas where flood velocities exceed five feet per second, unless the design is reviewed and certified by a registered architect or professional engineer.
2. The crawlspace is an enclosed area below the base flood elevation and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent interior and exterior grade. Crawlspace construction is not permitted in FEMA coastal high hazard area designated V zones. Open pile or column foundations that withstand storm surge and wave forces are required in V zones.
3. Portions of the building below the base flood elevation must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the base flood elevations. The recommended construction practice is to elevate the bottom of joists and all insulation above base flood elevation. Insulation is not a flood-resistant material. When insulation becomes saturated with floodwater, the additional weight often pulls it away from the joists and flooring. Ductwork or other utility systems located below the insulation may also pull away from their supports.
4. Any building utility systems including ductwork within the crawlspace must be elevated above base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork must either be placed one foot above the base flood elevation or sealed from floodwaters.

#### **14.70.130 ELEVATION AND FLOODPROOFING CERTIFICATION.**

Certification shall be provided to verify that the minimum floodproofing and elevation standards of WMC 17.70.110 and 14.70.120 flood hazard protection standards have been satisfied. Certification shall be required only for the new construction or substantial improvement of any residential, commercial, industrial, or non-residential structure located in a special flood hazard area. A completed current FEMA elevation certificate shall be required in accordance with National Flood Insurance Program regulations and standards.

#### **14.70.140 CERTIFICATION FORM.**

The form of the elevation and floodproofing certificate shall be specified by the department and shall be consistent with that required by FEMA for the administration of the national flood insurance program.

**14.70.150 INFORMATION TO BE OBTAINED.**

Surveyed existing ground elevations of the four corners of the proposed development shall be submitted with the plan review application. The elevation or floodproofing certificates shall verify the following flood hazard protection information:

- A. Surveyed existing ground elevations of the four corners of the proposed development; and
- B. The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement; and
- C. The actual elevation (in relation to mean sea level) of floodproofing of all new or substantially improved floodproofed structures, and that the floodproofing measures utilized below the base flood elevation render the structure watertight with walls substantially impermeable to the passage of water and have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

**14.70.160 CERTIFICATION RESPONSIBILITY.**

The project proponent shall be responsible for providing required certification data to the department prior to the applicable construction inspections specified in the certification form. All elevation data specified in WMC 14.70.150 must be obtained and certified by a registered professional land surveyor. Other floodproofing data specified in WMC 14.70.150 must be obtained and certified by a registered professional engineer or architect. The elevation and floodproofing certification shall be permanently maintained by the director.

**14.70.200 FLOODWAY FRINGE AREAS: PERMITTED USES.**

The following uses are permitted in the floodway fringe areas:

- A. Any use permitted by the applicable zone in accordance with WMC Title 14 when in compliance with all applicable provisions established in this chapter unless prohibited by WMC 14.70.210.
- B. Utility transmission lines. Utility transmission lines shall be permitted when consistent with WMC Chapter 14.16 and where not otherwise inconsistent with this chapter. When the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway fringe or special flood hazard area en route to another destination, as opposed to serving customers within a floodway fringe or special flood hazard area, such transmission line shall conform to the following:
  - 1. Electric transmission lines shall cross floodway fringe and special flood hazard areas by the most direct route feasible. When support towers must be located within floodway fringe or special flood hazard areas, they shall be placed to avoid high flood water velocity and/or depth areas, and shall be adequately flood proofed.
  - 2. Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet below the maximum scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained within the floodway fringe or special flood hazard area to the maximum extent of potential channel migration as determined by hydrologic analyses. All such hydrologic analyses shall conform to requirements of WMC 14.70.265.
  - 3. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and non-hazardous materials shall be buried below existing

natural and artificial drainage features. Burial depth shall be a minimum of six feet as measured from ground surface to the top of the transmission line, or at other such depth as deemed necessary by on-site investigations performed by a qualified soils expert familiar with Snohomish County soils.

4. All buried utility transmission lines shall achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated.
  5. Above ground utility transmission lines not including electric transmission lines shall only be allowed for the transportation of non-hazardous materials. In such cases, applicants must demonstrate that line placement will have no appreciable effect upon flood depth, velocity, or passage. Such lines shall be adequately protected from flood damage.
  6. Above ground utility transmission line appurtenant structures including valves, pumping stations, or other control facilities shall not be permitted in floodway fringe or special flood hazard areas except where no other alternative is available or in the event a floodway fringe or special flood hazard location is environmentally preferable. In such instances, above ground structures shall be located so that no appreciable effect upon flood depth, velocity or passage is created, and shall be adequately flood proofed.
- C. Critical facilities. Construction of new critical facilities shall be allowed only if no feasible alternative site is available outside of the flood hazard area.

#### **14.70.210 FLOODWAY FRINGE AREAS: PROHIBITED USES.**

New mobile home parks shall be prohibited in floodway fringe areas.

#### **14.70.220 FLOODWAYS: PERMITTED USES.**

The following uses are allowed in the floodway when permitted by the applicable zone under WMC 14, provided the use is in compliance with the applicable general and specific floodproofing standards of WMC 14.70.110 and 14.70.120, and other applicable provisions of this chapter:

- A. Agriculture;
- B. Forestry, including processing of forest products with portable equipment;
- C. Preserves and reservations;
- D. Park and recreational activities;
- E. Removal of rock, sand and gravel, when the applicant can provide clear and convincing evidence that such uses will not divert flood flows causing channel shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in any other way threaten public or private properties. When allowed, such removal shall comply with the provisions of the Town's shoreline management program;
- F. Utility transmission lines when allowed in underlying zones unless otherwise prohibited by this chapter. When the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:
  1. All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways;
  2. Electric transmission lines shall span the floodway with support towers located in flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive

- width, support towers shall be located to avoid high flood water velocity and/or depth areas, and shall be adequately floodproofed;
3. Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet below the maximum established scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. In the event potential channel migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and special flood hazard areas shall also govern placement. All hydrologic analyses are subject to acceptance by the county, shall assume the conditions of a 100-year frequency flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations and consideration of historical meander characteristics in addition to other pertinent facts and data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the Town's Shoreline Master Program;
  4. Buried utility transmission lines transporting non-hazardous materials including water and sewage shall be buried a minimum of four feet below the maximum established scour of the waterway as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. All hydrologic analyses shall conform to requirements in subsection (F)(3) of this section. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the Town's Shoreline Master Program;
  5. Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and non-hazardous materials shall be buried below existing natural and artificial drainage features. Burial depth shall be a minimum of six feet as measured from ground surface to the top of the transmission line, or at other such depth as deemed necessary by on-site investigations performed by a qualified soils expert familiar with county soils. Burial depth in all other agricultural and non-agricultural floodway areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage;
  6. All buried utility transmission lines shall achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated;
  7. Above ground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of non-hazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the level of the 100-year flood, the transmission line shall be placed on the down-stream side and protected from flood debris. In such instances, site specific conditions and flood damage potential shall dictate placement, design and protection throughout the floodway. Applicants must demonstrate that such above ground lines will have no appreciable effect upon flood depth, velocity or passage, and shall be adequately protected from flood damage. If the transmission line is to be buried except at the waterway crossing, burial specifications shall be determined as in subsection (F)(4) of this section;

8. All floodway crossings by utility transmission lines transporting hazardous materials shall be equipped with valves capable of blocking flow within the pipeline in the event of leakage or rupture. All floodway crossings shall have valves unless otherwise indicated by standard engineering review of the site and type of transmission line as acceptable to the county with locations determined by other provisions of this chapter;
  9. Above ground utility transmission line appurtenant structures including valves, pumping stations, or other control facilities shall not be permitted in the floodway; and
  10. Where a floodway has not been determined by preliminary Corps of Engineers' investigations or official designation, a floodway shall be defined by qualified engineering work by the applicant on the basis of a verified 100-year flood event.
- G. Repairs, replacement, or relocation of substantially damaged residences in the floodway, are subject to the following:
1. When residences are substantially damaged in the floodway, the director may make a written request to the Department of Ecology under RCW 86.16.041(4) to assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the floodplain administrator authority to permit repair, replacement, or relocation of the substantially damaged structure. The property owner shall submit any information necessary to complete the assessment to the Town and the Department of Ecology. Without a favorable recommendation from the Department of Ecology for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed under WAC 173-158-076(1).
  2. Before the repair, replacement, or relocation is started, all applicable requirements of the National Flood Insurance Program, chapter 86.16 RCW, WMC Chapter 14.71, and this chapter must be satisfied. In addition, the following conditions must be met:
    - a. There is no potential building location for the replacement residential structure on the same property outside the regulatory floodway;
    - b. The replacement residential structure is equivalent in use and size to the substantially damaged residential structure;
    - c. The structure being repaired, replaced, or reconstructed was legally constructed;
    - d. Repairs, reconstruction, or replacement do not result in an increase of the total square footage of floodway encroachment;
    - e. The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the base flood elevation;
    - f. New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwater into the system;
    - g. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters; and
    - h. All other utilities and connections to public utilities are elevated a minimum of one foot above the base flood elevation and are designed, constructed, and located to eliminate or minimize flood damage.

- H. Repair, reconstruction, or improvement of residential structures, where repair, reconstruction, or improvement of a structure does not increase the ground floor area, and is not a substantial improvement.
- I. Water-dependent utilities and other installations which by their very nature must be in the floodway. Examples of such uses are: Dams for domestic/industrial water supply, flood control and/or hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or fisheries enhancement; flood water and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; structural and nonstructural flood damage reduction facilities, and stream bank stabilization structures and practices. The applicant shall supply convincing evidence that a floodway location is necessary in view of the objectives of the proposal and that the proposal is consistent with other provisions of this chapter and the town shoreline management program. In all instances of locating utilities and other installations in floodway locations, project design must incorporate floodproofing.

#### **14.70.230 FLOODWAYS: PROHIBITED USES.**

- A. The following uses/development are prohibited in the floodway:
  - 1. Any structure, including mobile homes designed for, or to be used for, human habitation of a permanent nature.
  - 2. All encroachments, including fill, new construction, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge.
  - 3. The construction or storage of any object subject to flotation or movement during flood level periods;
  - 4. The following uses, due to their high degree of incompatibility with the purpose of establishing and maintaining a functional floodway are specifically prohibited:
    - a. The filling of marshlands;
    - b. Solid waste landfills, dumps, junkyards, outdoor storage of vehicles and/or materials;
    - c. Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the occurrence of the base flood discharge; and
    - d. Critical facilities as defined in this title.
- B. The listing of prohibited uses in this section shall not be construed to alter the general rule of statutory construction that any use not permitted is prohibited.

#### **14.70.240 CONTINUATION OF NONCONFORMING USES AND STRUCTURES.**

Any nonconforming use or nonconforming structure may be continued subject to the provisions of this chapter. The provisions of WMC 14.70.310 through 14.70.340 shall be applied in place of other provisions in chapter WMC 14.52 relating to nonconforming uses and structures.

#### **14.70.250 NONCONFORMING USES.**

Nonconforming uses shall not be expanded and may be changed only to other uses which are allowed by this chapter; except that nonsubstantial improvements to the structural portions of nonconforming uses are allowed as provided in WMC 14.70.330(A).

**14.70.260 DISCONTINUANCE.**

If the nonconforming use is discontinued for a period of 12 consecutive months or more, the nonconforming status of the use is terminated and any future use of the land or structures shall be in conformity with the provisions of this chapter. The mere presence of a structure, equipment, or material shall not be deemed to constitute the continuance of a nonconforming use unless the structure, equipment or material is actually being occupied or employed in maintaining such use.

**14.70.270 RESTORATION.**

- A. Nothing in this shall be deemed to prohibit the restoration of the structural portions of a nonconforming use located outside a designated floodway within six months from the date of its accidental damage by fire, explosion, natural disaster, or act of public enemy; provided that the applicable elevation and/or floodproofing requirements of this title shall be adhered to if the structure is destroyed. A structure shall be considered to be destroyed if the restoration costs exceed 75 percent of the market value; provided further that restoration of nonresidential structures in the floodway shall be allowed when the applicable provisions of WMC 14.70.220 and 14.70.230 are met.
- A. Construction or reconstruction of the structural portions of a nonconforming use pursuant to this section in a special flood hazard area, whether new construction, substantial or nonsubstantial improvements, shall be subject to all applicable provisions of this chapter and WMC Chapter 14.71.

**14.70.280 NONCONFORMING STRUCTURES.**

- A. Nonconforming structures may be structurally altered or enlarged and nonconforming structures accidentally damaged or destroyed by fire, explosion, act of God, or act of public enemy may be reconstructed; provided that the degree of nonconformance shall not be increased and the applicable elevation and/or floodproofing requirements of this title shall be observed when proposed construction is a substantial improvement provided further that, construction in the floodway (nonsubstantial and substantial improvements) shall be subject to the limitations of WMC 14.70.220 and 14.70.230.
- B. Nonconforming structures that are also the structural portions of a nonconforming use shall also be subject to the provisions of WMC 14.70.330.

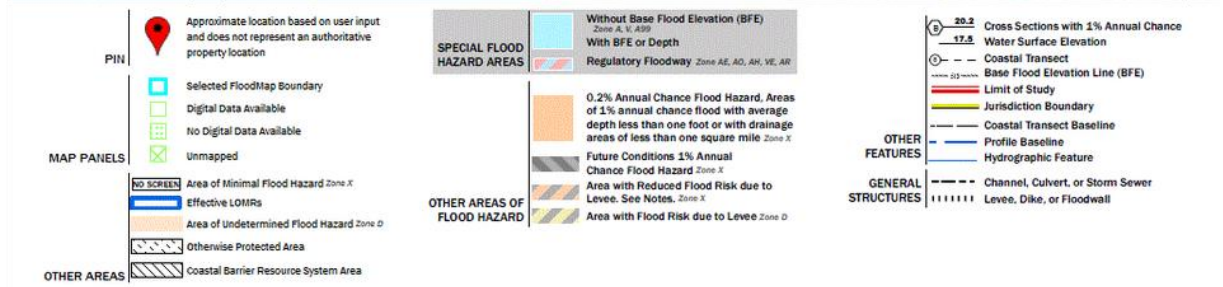
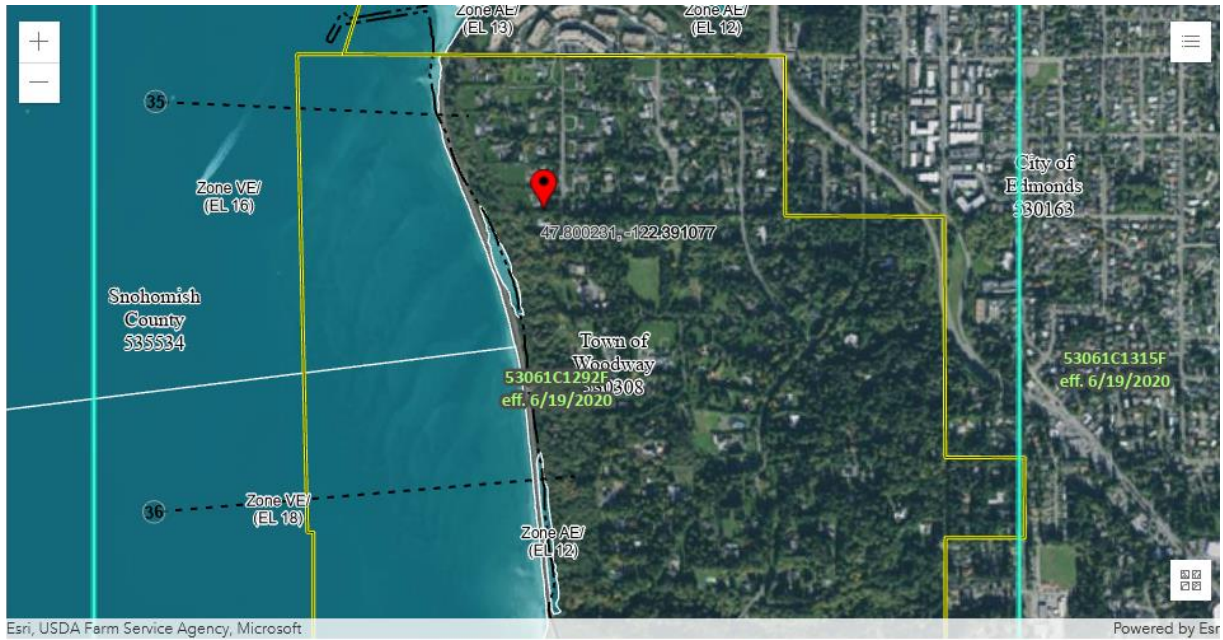
**14.70.290 ENFORCEMENT.**

The provisions of this chapter shall be enforced under WMC Chapter 1.14.

**14.70.300 FEMA FLOOD INSURANCE RATE MAPS**

FEMA's Flood Insurance Rate Maps depicting special flood hazard zones are illustrated in Figure 1 – North and Figure 2 – South. These maps are effective 6/19/2020.

NORTH







## WMC CHAPTER 14.71: FLOOD HAZARD PERMITS

### Sections:

- 14.71.010 Purpose and applicability.
- 14.71.020 Flood hazard permit.
- 14.71.030 Additional submittal requirements.
- 14.71.040 No liability.
- 14.71.050 Time limitation of application.
- 14.71.060 Decision criteria - flood hazard permit.
- 14.71.070 Permit expiration.
- 14.71.080 Enforcement.

### **14.71.010 PURPOSE AND APPLICABILITY.**

The purpose of this chapter is to set forth the procedures and decision criteria for flood hazard permits. This chapter applies to all development in a special flood hazard area as provided in WMC Chapter 14.70.

### **14.71.020 FLOOD HAZARD PERMIT.**

Prior to any development within a special flood hazard area as defined in WMC 14.08.305, a flood hazard permit shall be obtained. The Town shall have the authority to approve, approve with conditions, or deny a flood hazard permit using an administrative approval. The flood hazard permit is exempt from the notice provisions set forth in WMC 14A.04.070. If the flood hazard permit is accompanied by a concurrent development activity application, the flood hazard permit application may, at the applicant's request, be processed concurrently with the development activity application.. In order to be considered concurrent, all other development activity permits must be submitted to the Town at the same time as the flood hazard permit application.

### **14.71.030 ADDITIONAL SUBMITTAL REQUIREMENTS.**

All persons applying for a flood hazard permit shall make application to and shall meet the submittal requirements established by the department pursuant to 14A.04.060. Additional submittal requirements shall include the following:

- A. Name of the stream or body of water associated with the floodplain in which the development is proposed;
- B. General location of the proposed development;
- C. Site plan map showing:
  - 1. Site boundaries;
  - 2. Location and dimensions of the proposed development or structure;
  - 3. Location and volume of any proposed fill material; and
  - 4. Location of existing structures;
- D. Topographic, engineering, and construction information necessary to evaluate the proposed project that may be requested by the department through the preapplication process or during the initial review for completeness of the application;
- E. Additional information when required pursuant to chapter WMC 14.70;

- F. If a project proposes to alter or relocate a riverine watercourse, the flood hazard permit application shall include a description of the extent to which the riverine watercourse will be altered or relocated;
- G. If a project will alter the base flood elevation or the boundaries of the special flood hazard area the flood hazard permit application shall include:
  - 1. Engineering documentation and analysis developed by a registered qualified professional engineer regarding the proposed change; and
  - 2. If required by the Federal Emergency Management Agency, a letter of map change from that agency. If a letter of map change is required, the applicant must receive approval of a conditional letter of map revision from the Federal Emergency Management Agency before the flood hazard permit may be approved. The application for the flood hazard permit shall include the complete conditional letter of map revision application package;
- H. Elevation and floodproofing certification under WMC 14.70.130 and 140; and
- I. If a project is proposed in the floodway, certification by a registered professional engineer confirming that the proposal will not result in any increase in flood levels during the occurrence of the base flood discharge.

**14.71.040 NO LIABILITY.**

The granting of a permit for any development or use shall not constitute a representation, guarantee, or warranty of any kind or nature by the Town , or any official or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon, or cause of action against, such public body, official, or employee for any damage that may result thereto.

**14.71.050 TIME LIMITATION OF APPLICATION.**

An application for a flood hazard permit shall expire 18 months from the date of letter of completeness.

**14.71.060 DECISION CRITERIA - FLOOD HAZARD PERMIT.**

The department may approve or approve with conditions a flood hazard permit when the following is met:

- A. The requirements of chapter 14.70 are met, including, but not limited to
  - 1. Floodproofing requirements;
  - 2. Floodway encroachment provisions;
  - 3. Density fringe area provisions; and
  - 4. Requirements relating to the alteration or relocation of a watercourse; and
- B. Permits from those agencies for which prior approval is required have been issued; and
- C. The permit is in accordance with this code and other applicable local, state, and federal regulations; and
- D. Development authorized by the permit will not:
  - 1. Significantly increase the level of flooding on any lands;
  - 2. Threaten the preservation of those natural conditions which are conducive to the maintenance of constant rates of water flow throughout the year by:
    - a. creating or exacerbating rapid water runoff conditions which contribute to increased downstream flooding; and

- b. eliminating natural groundwater absorption areas essential for reducing surface flood flows downstream. In-kind on-site mitigation may be used to achieve this requirement; and
- 3. Materially pollute or contribute to the turbidity of flood waters.

**14.71.070 PERMIT EXPIRATION.**

The flood hazard permit shall expire 18 months from date of issuance.

**14.71.080 ENFORCEMENT.**

The provisions of this chapter shall be enforced under WMC Chapter 1.14.

## WMC CHAPTER 14.08: DEFINITIONS

### New Sections:

- 14.08.082 Critical facility.
- 14.08.086 Development activity.
- 14.08.305 Special flood hazard area

#### **14.08.082 CRITICAL FACILITY.**

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include but are not limited to schools; nursing homes; hospitals; police, fire and emergency response installations; and installations which produce, use, or store hazardous materials or hazardous waste.

#### **14.08.086 DEVELOPMENT ACTIVITY.**

“Development” means any construction, development, earth movement, clearing, or other site disturbance which either requires a permit, approval, or authorization from the Town or is proposed by a public agency.

#### **14.08.305 SPECIAL FLOOD HAZARD AREA.**

“Special flood hazard area” means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, or AR (V, VO, V1-30, VE). “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

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## MEMO

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**TO:** Mayor Mike Quinn, Woodway Councilmembers  
**FROM:** Eric Faison, Town Administrator  
**SUBJECT:** ADUs and Short-Term Home Rentals in Woodway  
**DATE:** December 6, 2021  
**CC:** Heidi K. S. Napolitano, Clerk-Treasurer

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### Summary

Earlier this year, we received inquiries about both accessory dwelling units and property rental regulations in Woodway. Council discussed the topic at a couple of meetings over the last several months, which included a presentation by Building Official Tom Phillips and comments from interested residents. The purpose of the discussion during this meeting is to finally determine whether the Council wants to send this topic to the Planning Commission for additional research, discussion, and recommendation. If Council decides to send the matter to the Planning Commission, staff seeks direction as to the scope of the issue(s) presented. Some examples of questions of particular interest include:

- Whether the Town should allow guest houses in the R-14.5 zone district.
- Whether the Town should allow guest houses to be rented and, if so, with what conditions. Include an evaluation of potential impacts of allowing guest houses to be rented, including traffic, parking, noise, population, administration, etc.
- Whether the Town should allow short-term rentals and, if so, with what conditions.
- Whether/how the Town should regulate and/or tax rentals.

### Town Code

Our code is mostly silent on the topic of renting property in Woodway. The only references are:

1. *14.08.140 Definitions. Guest house/caretaker's cottage.* "Guest house/caretaker's cottage" means a secondary building which shall be occupied by members of the family, guests, domestic service workers or gardeners, but not leased or rented as a dwelling unit. A guest house or caretaker cottage may also be located within another secondary structure, such as a garage or a barn as a living unit and occupied by members of the family, guests, domestic service workers or gardeners, but not leased or rented as a dwelling unit.

2. *14.24.030 (I) & 14.28.030 (I) Permitted secondary uses.* One guest house or caretaker cottage is permitted when located at least twenty-five feet from the primary residential building or a minimum of ten feet when connected with a breezeway. The footprint of a guest house or caretaker cottage shall not exceed nine hundred square feet and the structure must meet bulk regulations for the zoning area. A guest house or caretaker cottage may also be located within another secondary structure such as a garage or a barn as a living unit. If included within a secondary structure, the guest or caretaker unit shall not exceed nine hundred square feet in size. This structure or unit shall only be used as a living unit and shall not, in any instance, be used for rental purposes or be sold as a primary residence.

Item 2 above includes language from the R-87 and R-43 zone districts. The R-14.5 & UR zone districts don't allow guest houses/caretaker cottages.

The code is silent on several important points:

1. *Short-term rentals:* Since the code was written, short-term rentals (Air BNB, VRBO, etc.) have grown in popularity. MRSC has written several articles on the topic. They note that the top three concerns in communities across the state related to short-term rentals are:
  - a. Collection of lodging and sales tax on short-term rentals (note, staff did an analysis of potential revenue and determined that General Fund revenue would be relatively minor, with most of the revenue being legally-restricted lodging tax revenue);
  - b. Mitigation of traffic, parking, noise, and other impacts on the surrounding neighborhood; and
  - c. Compliance with life/safety standards that are commonly applied to other types of lodging establishments (such as hotels, motels, and bed-and-breakfasts).
2. *Long-term rentals:* The code does not address rentals, other than rental of guest houses. In particular, the code does not specifically address a situation in which someone lives in the guest house and rents out the main house or lives in a guest space contained within the house and rents out the main living space. If the intent of the code is to only allow someone to rent an entire property, this should be discussed/amended.

### **Affordable Housing/Legislative Action**

With the increase in property values region-wide, affordable housing is harder to find. Some have argued that allowing long-term rentals of guest houses (rather than short-term rentals of guest houses or primary residences) could increase the affordability of housing, including in

Woodway. There are questions, however, whether ADUs increase the cost/value of the main house, offsetting some, if not all, of the affordability gains.

The State is increasingly focused on this issue – including current laws that require cities with more than 20,000 residents to allow accessory dwelling units within single-family zones, subject to development, design, and owner-occupancy standards. There have been discussions that this next legislative session may include proposals to eliminate single-family zoning, similar to what has been done in California and Oregon. Even if the Council does not want to pursue policy changes related to ADUs now, Council may want to have the Commission thoroughly research this issue with readily available recommendations should the Town become subject to new mandatory regulations.

### **Conclusion**

Staff is seeking Council direction on whether Council wants to send the topics of ADUs and rentals to the Planning Commission for additional research, discussion, and recommendation. If Council decides to send one or both of these issues to the Commission, staff seeks direction as to the scope of the issue(s) presented.



**TOWN OF WOODWAY  
RESOLUTION 2022-433**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WOODWAY DIRECTING  
THE PLANNING COMMISSION TO CONDUCT A PUBLIC HEARING ON AN  
AMENDMENT TO THE TOWN'S CODE ADDRESSING SHORT-TERM RENTALS

WHEREAS, the primary purpose of the Town of Woodway ("Town") Residence Zones and UR Urban Restricted Zone ("Residential Zones") within the Woodway Municipal Code ("WMC") is to provide for one-family dwelling units with incidental, compatible secondary uses; and

WHEREAS, while short-term rental housing is not identified as a permitted primary or secondary use within the Town's Zoning code, neither the Town's Zoning code nor the Town's Business Licensing code directly address short-term rentals; and

WHEREAS, it is the position of the Town Council ("Council") that short-term rentals are prohibited and inconsistent commercial uses within the Town's Residential Zones; and

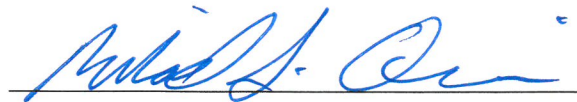
WHEREAS, the Council desires to receive public input and a recommendation from the Town's Planning Commission ("Planning Commission") on an amendment to the WMC that would clarify the Town's prohibition on short-term rentals;

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

Section 1. The Council directs the Planning Commission to review the WMC, draft an amendment that will clarify the Town's prohibition on short-term rentals in the Town's Residential Zones, receive public comment on such amendment, and make a recommendation to Council with respect to the amendment.

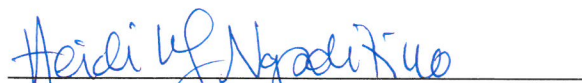
PASSED this 3<sup>rd</sup> day of January 2022 by the Town Council of the Town of Woodway.

TOWN OF WOODWAY



Michael S. Quinn, Mayor

ATTEST:

  
Heidi K. S. Napolitano, Clerk-Treasurer

**TOWN OF WOODWAY  
PLANNING COMMISSION**

**RESOLUTION PC-2022-007**

A RESOLUTION OF THE WOODWAY PLANNING COMMISSION RECOMMENDING TO  
THE TOWN COUNCIL APPROVAL OF AMENDMENTS TO THE ZONING CODE  
RELATED TO THE PROHIBITION OF SHORT-TERM RENTAL UNITS ADDING WMC  
14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025

WHEREAS, the Washington State Growth Management Act provides for the update, review, and revision of Comprehensive plans and development regulations to comply with the requirements of the Growth Management Act and legislative changes; and

WHEREAS, the Town of Woodway Council passed Resolution 2022-433 on January 3, 2022 directing the Planning Commission to prepare an amendment to the zoning code prohibiting short-term rental units, solicit public comments, and conduct a public hearing; and

WHEREAS, the Planning Commission conducted two study sessions on April 6 and May 4 to discuss short-term rentals and review a proposed amendment to the zoning code; and

WHEREAS, a Notice of Adoption of proposed amendments was sent to the Department of Commerce on June 22, 2022; and

WHEREAS, a SEPA Declaration of Non-Significance was issued on June 22, 2022; and

WHEREAS, a notice of public hearing was advertised in the Everett Herald newspaper on June 24, 2022, and posted on Town bulletin boards and the Town's website on June 23, 2022; and

WHEREAS, The Planning Commission conducted a public hearing on July 6, 2022; and


WHEREAS, The staff report attached hereto as Exhibit A includes an analysis, findings and conclusions and a recommendation of the proposed amendments to the Town Council.

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

Section 1. The Planning Commission adopts the staff report attached hereto as Exhibit A, including the attachment containing zoning text amendments (new code sections WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025), and recommends to the Woodway Town Council that the proposed zoning text amendments be adopted.

PASSED this 6<sup>th</sup> day of July 2022 by the Planning Commission of the Town of Woodway.

TOWN OF WOODWAY

  
\_\_\_\_\_  
Per Odegaard, Chair

ATTEST:

  
\_\_\_\_\_  
Kim Sullivan, Planning Commission Secretary

Attachment: Exhibit A: Staff Report to the Planning Commission Regarding Proposed  
Amendments to the Zone Areas (Adding WMC 14.08.305, 14.20.025, 14.24.025,  
14.28.025, 14.32.025, 14.36.025, & 14.40.025).

**Planning Commission Resolution PC-2022-007  
Exhibit A**

**Staff Report to the Town of Woodway Planning Commission  
Regarding Proposed Amendments to the  
Zoning Regulations Prohibiting Short-Term Rental Units (Adding WMC  
14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025).**

**Part 1: Introduction**

<b>Applicant:</b>	Town of Woodway 23920 113 <sup>th</sup> Place W. Woodway, WA 98020
<b>Public Hearing Date:</b>	July 6, 2022
<b>Public Hearing Purpose:</b>	For the Planning Commission to receive public comments regarding proposed amendments to the Zoning Regulations prohibiting short-term rental units (Adding WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025) and to forward a recommendation to the Town Council for action.
<b>Location of Proposal:</b>	The proposed amendments are legislative in nature and applicable to all lands within the Town boundaries.
<b>SEPA Compliance:</b>	Pursuant to WMC 16.04. a determination of non-significance was issued on June 22, 2022, forwarded to the Town's SEPA distribution list, noticed in the Everett Herald and posted on the Town's public notice boards.
<b>Public Notification:</b>	A notice for the public hearing was advertised in the Everett Herald and posted in several public places within the Town of Woodway June 23, 2022. A "notice of intent to adopt amendment" (60-day notice) was also sent to the Washington State Department of Commerce on June 22, 2022.

**Part II: Background Information**

The Town Council discussed the residential character of the Town at its meeting of January 3, 2022 and considered whether the presence of short-term rental units would be consistent with the Town's character. Following their discussion, the Council passed a resolution directing the Planning Commission to conduct a public outreach program to solicit public opinion and prepare an amendment to the Town's zoning ordinance prohibiting short term rental units. On April 6, 2022, the Planning Commission conducted a study session to discuss the

prohibition of short-term rental units and whether existing housing used for personal rehabilitation purposes would be considered as short-term rental units. The Commission conducted an additional study session on May 4, 2022 and was informed that the state law specifically exempts housing used for temporary rehabilitation purposes as short-term rental housing. The Commission also reviewed the proposed amendment to zoning ordinance defining short term rentals and the proposed code sections prohibiting short term rentals in all the Town's zoning districts. They also discussed a public outreach program. The Commission then set July 6, 2022 for a public hearing.

Staff prepared public information on its website and solicited comments related to the proposed amendments. Comments are due on June 30<sup>th</sup> and a summary of the comments will be presented to the Commission at the July 6<sup>th</sup> public hearing.

### **Part III: Proposed Amendments**

The proposed amendments to the zoning regulations would be an addition to the definitions section and an addition to each zone district section. The proposed amendments would be as follows:

**14.08.305 "Short-Term Rental"** Short-term rental means a lodging use that is not a hotel or motel in which a dwelling unit, or portion thereof, is offered or provided to a guest by a person or entity for a fee or payment for fewer than thirty consecutive nights.

**14.20.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.24.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.28.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.32.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.36.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.40.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

### **Part IV: Initiation of Zone Code Amendments by the Town Council**

Pursuant to the Town code at 14.44.020, the Town Council has initiated the amendment to the zoning regulations by resolution and recommended the Planning Commission conduct a public hearing and forward a recommendation for action.

## **Part V: Findings and Conclusions**

The proposed amendments to the Town's zoning ordinance have been prepared consistent with the applicable provisions of the Washington State Growth Management Act and the Town's zoning regulations. As such, the Town staff makes the following findings and conclusions:

1. The Woodway Town Council passed Resolution No. 2022-433 on January 3, 2022 directing the Planning Commission to prepare an amendment to the Town's Zoning Ordinance prohibiting short term rental units, solicit public opinion, and conduct a public hearing.
2. Pursuant to the Council's resolution and directive, the Planning Commission conducted two study sessions on April 6 and May 4 to discuss proposed amendments to the Town's zoning regulations.
3. The Town's SEPA Official issued a Determination of Non-Significance on June 22, 2022 and no appeals have been filed as of this writing.
4. A Notice of Intent to Adopt Amendments was sent to the Dept. of Commerce on June 22, 2022.
5. A notice of the public hearing before the Planning Commission was advertised in the Everett Herald and posted in public places.
6. The Planning Commission conducted a public hearing July 6, 2022, to receive public testimony on the proposed amendments.
7. The additional sections WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025 are in harmony with the comprehensive plan and land use for the Town.

## **Part VI: Recommendation**

Based on the above findings and conclusions, staff recommends that the Planning Commission recommend approval of the proposed amendments (new code sections WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025) and forward a recommendation to Council as provided for in Resolution 2022-433.

Attachment 1: New code sections WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025

# **TOWN OF WOODWAY**

## **PLANNING COMMISSION RESOLUTION PC-2022-007 EXHIBIT A | ATTACHMENT 1**

### **SHORT-TERM RENTAL PROHIBITION | PROPOSED NEW CODE SECTIONS**

#### **CHAPTER 14.08.305 “SHORT-TERM RENTAL”**

Short-term rental means a lodging use that is not a hotel or motel in which a dwelling unit, or portion thereof, is offered or provided to a guest by a person or entity for a fee or payment for fewer than thirty consecutive nights.

#### **14.20.025 PROHIBITED USES**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.24.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.28.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.32.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.36.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.40.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

# **TOWN OF WOODWAY**

## **ORDINANCE 2022-642**

AN ORDINANCE OF THE TOWN OF WOODWAY APPROVING FINDINGS OF FACT;  
AND PROHIBITING SHORT-TERM PROPERTY RENTAL IN ALL ZONING DISTRICTS;  
PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND  
AUTHORIZING SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, the Washington State Growth Management Act provides for the update, review, and revision of Comprehensive plans and development regulations to comply with the requirements of the Growth Management Act and legislative changes; and

WHEREAS, the Town of Woodway Council passed Resolution 2022-433 on January 3, 2022 directing the Planning Commission to prepare an amendment to the zoning code prohibiting short-term rental units, solicit public comments, and conduct a public hearing; and

WHEREAS, the Planning Commission conducted two study sessions on April 6 and May 4 to discuss short-term rentals and review a proposed amendment to the zoning code; and

WHEREAS, a Notice of Adoption of proposed amendments was sent to the Department of Commerce on June 22, 2022; and

WHEREAS, a SEPA Declaration of Non-Significance was issued on June 22, 2022; and

WHEREAS, a notice of public hearing was advertised in the Everett Herald newspaper on June 24, 2022, and posted on Town bulletin boards and the Town's website on June 23, 2022; and

WHEREAS, The Planning Commission conducted a public hearing on July 6, 2022; and

WHEREAS, Planning Commission Resolution PC-2022-007 attached hereto as Exhibit A includes analysis, findings, conclusions, and a recommendation of the proposed amendments to the Town Council; and

WHEREAS, the Town Council, upon review and discussion of the recommendations of the Planning Commission, accepts the recommendation and has determined the prohibition on short-term rentals in all zoning districts of the Town is in the public interest and beneficial to the Town of Woodway,

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

Section 1. Findings. The above recitals, the recitals in Town of Woodway Planning Commission Resolution PC-2022-007, and the information provided to the



Planning Commission in Exhibit A to the Resolution by staff are hereby adopted as findings of fact in support of Section 2 of this Ordinance.

Section 2. New Woodway Municipal Code sections are enacted as follows:

**CHAPTER 14.08.305 “SHORT-TERM RENTAL”**

Short-term rental means a lodging use that is not a hotel or motel in which a dwelling unit, or portion thereof, is offered or provided to a guest by a person or entity for a fee or payment for fewer than thirty consecutive nights.

**14.20.025 PROHIBITED USES**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.24.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.28.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.32.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.36.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.40.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

Section 3. If any part or portion of this Ordinance is declared invalid for any such reason, such declaration of invalidity shall not affect any remaining portion.

Section 4. This Ordinance shall take effect 5 days after date of publication by ordinance title only.

PASSED this 19<sup>th</sup> day of September 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

APPROVED AS TO FORM:

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Greg Rubstello, Town Attorney

Date Passed by the Town Council: Did not pass – 2 votes in favor to 3 votes against

Date Published: N/A

Effective Date: N/A

**TOWN OF WOODWAY  
PLANNING COMMISSION**

**RESOLUTION PC-2022-007**

A RESOLUTION OF THE WOODWAY PLANNING COMMISSION RECOMMENDING TO  
THE TOWN COUNCIL APPROVAL OF AMENDMENTS TO THE ZONING CODE  
RELATED TO THE PROHIBITION OF SHORT-TERM RENTAL UNITS ADDING WMC  
14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025

WHEREAS, the Washington State Growth Management Act provides for the update, review, and revision of Comprehensive plans and development regulations to comply with the requirements of the Growth Management Act and legislative changes; and

WHEREAS, the Town of Woodway Council passed Resolution 2022-433 on January 3, 2022 directing the Planning Commission to prepare an amendment to the zoning code prohibiting short-term rental units, solicit public comments, and conduct a public hearing; and

WHEREAS, the Planning Commission conducted two study sessions on April 6 and May 4 to discuss short-term rentals and review a proposed amendment to the zoning code; and

WHEREAS, a Notice of Adoption of proposed amendments was sent to the Department of Commerce on June 22, 2022; and

WHEREAS, a SEPA Declaration of Non-Significance was issued on June 22, 2022; and

WHEREAS, a notice of public hearing was advertised in the Everett Herald newspaper on June 24, 2022, and posted on Town bulletin boards and the Town's website on June 23, 2022; and

WHEREAS, The Planning Commission conducted a public hearing on July 6, 2022; and


WHEREAS, The staff report attached hereto as Exhibit A includes an analysis, findings and conclusions and a recommendation of the proposed amendments to the Town Council.

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

Section 1. The Planning Commission adopts the staff report attached hereto as Exhibit A, including the attachment containing zoning text amendments (new code sections WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025), and recommends to the Woodway Town Council that the proposed zoning text amendments be adopted.

PASSED this 6<sup>th</sup> day of July 2022 by the Planning Commission of the Town of Woodway.

TOWN OF WOODWAY

  
\_\_\_\_\_  
Per Odegaard, Chair

ATTEST:

  
\_\_\_\_\_  
Kim Sullivan, Planning Commission Secretary

Attachment: Exhibit A: Staff Report to the Planning Commission Regarding Proposed  
Amendments to the Zone Areas (Adding WMC 14.08.305, 14.20.025, 14.24.025,  
14.28.025, 14.32.025, 14.36.025, & 14.40.025).

**Planning Commission Resolution PC-2022-007**  
**Exhibit A**

**Staff Report to the Town of Woodway Planning Commission**  
**Regarding Proposed Amendments to the**  
**Zoning Regulations Prohibiting Short-Term Rental Units (Adding WMC**  
**14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025).**

**Part 1: Introduction**

<b>Applicant:</b>	Town of Woodway 23920 113 <sup>th</sup> Place W. Woodway, WA 98020
<b>Public Hearing Date:</b>	July 6, 2022
<b>Public Hearing Purpose:</b>	For the Planning Commission to receive public comments regarding proposed amendments to the Zoning Regulations prohibiting short-term rental units (Adding WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025) and to forward a recommendation to the Town Council for action.
<b>Location of Proposal:</b>	The proposed amendments are legislative in nature and applicable to all lands within the Town boundaries.
<b>SEPA Compliance:</b>	Pursuant to WMC 16.04. a determination of non-significance was issued on June 22, 2022, forwarded to the Town's SEPA distribution list, noticed in the Everett Herald and posted on the Town's public notice boards.
<b>Public Notification:</b>	A notice for the public hearing was advertised in the Everett Herald and posted in several public places within the Town of Woodway June 23, 2022. A "notice of intent to adopt amendment" (60-day notice) was also sent to the Washington State Department of Commerce on June 22, 2022.

**Part II: Background Information**

The Town Council discussed the residential character of the Town at its meeting of January 3, 2022 and considered whether the presence of short-term rental units would be consistent with the Town's character. Following their discussion, the Council passed a resolution directing the Planning Commission to conduct a public outreach program to solicit public opinion and prepare an amendment to the Town's zoning ordinance prohibiting short term rental units. On April 6, 2022, the Planning Commission conducted a study session to discuss the

prohibition of short-term rental units and whether existing housing used for personal rehabilitation purposes would be considered as short-term rental units. The Commission conducted an additional study session on May 4, 2022 and was informed that the state law specifically exempts housing used for temporary rehabilitation purposes as short-term rental housing. The Commission also reviewed the proposed amendment to zoning ordinance defining short term rentals and the proposed code sections prohibiting short term rentals in all the Town's zoning districts. They also discussed a public outreach program. The Commission then set July 6, 2022 for a public hearing. Staff prepared public information on its website and solicited comments related to the proposed amendments. Comments are due on June 30<sup>th</sup> and a summary of the comments will be presented to the Commission at the July 6<sup>th</sup> public hearing.

### **Part III: Proposed Amendments**

The proposed amendments to the zoning regulations would be an addition to the definitions section and an addition to each zone district section. The proposed amendments would be as follows:

**14.08.305 “Short-Term Rental”** Short-term rental means a lodging use that is not a hotel or motel in which a dwelling unit, or portion thereof, is offered or provided to a guest by a person or entity for a fee or payment for fewer than thirty consecutive nights.

**14.20.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.24.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.28.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.32.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.36.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

**14.40.025 Prohibited Uses.** Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

### **Part IV: Initiation of Zone Code Amendments by the Town Council**

Pursuant to the Town code at 14.44.020, the Town Council has initiated the amendment to the zoning regulations by resolution and recommended the Planning Commission conduct a public hearing and forward a recommendation for action.

## **Part V: Findings and Conclusions**

The proposed amendments to the Town's zoning ordinance have been prepared consistent with the applicable provisions of the Washington State Growth Management Act and the Town's zoning regulations. As such, the Town staff makes the following findings and conclusions:

1. The Woodway Town Council passed Resolution No. 2022-433 on January 3, 2022 directing the Planning Commission to prepare an amendment to the Town's Zoning Ordinance prohibiting short term rental units, solicit public opinion, and conduct a public hearing.
2. Pursuant to the Council's resolution and directive, the Planning Commission conducted two study sessions on April 6 and May 4 to discuss proposed amendments to the Town's zoning regulations.
3. The Town's SEPA Official issued a Determination of Non-Significance on June 22, 2022 and no appeals have been filed as of this writing.
4. A Notice of Intent to Adopt Amendments was sent to the Dept. of Commerce on June 22, 2022.
5. A notice of the public hearing before the Planning Commission was advertised in the Everett Herald and posted in public places.
6. The Planning Commission conducted a public hearing July 6, 2022, to receive public testimony on the proposed amendments.
7. The additional sections WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025 are in harmony with the comprehensive plan and land use for the Town.

## **Part VI: Recommendation**

Based on the above findings and conclusions, staff recommends that the Planning Commission recommend approval of the proposed amendments (new code sections WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025) and forward a recommendation to Council as provided for in Resolution 2022-433.

Attachment 1: New code sections WMC 14.08.305, 14.20.025, 14.24.025, 14.28.025, 14.32.025, 14.36.025, & 14.40.025

# **TOWN OF WOODWAY**

## **PLANNING COMMISSION RESOLUTION PC-2022-007 EXHIBIT A | ATTACHMENT 1**

### **SHORT-TERM RENTAL PROHIBITION | PROPOSED NEW CODE SECTIONS**

#### **CHAPTER 14.08.305 “SHORT-TERM RENTAL”**

Short-term rental means a lodging use that is not a hotel or motel in which a dwelling unit, or portion thereof, is offered or provided to a guest by a person or entity for a fee or payment for fewer than thirty consecutive nights.

#### **14.20.025 PROHIBITED USES**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.24.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.28.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.32.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.36.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.

#### **14.40.025 PROHIBITED USES.**

Short-Term Rentals as defined in WMC 14.08.305 are prohibited.



## MEMORANDUM

To: Mayor Quinn and Councilmembers  
From: Per Odegaard, Planning Commission Chairman  
Date: November 2, 2023  
Subject: Reconsideration of Planning Commission Resolution No. 2022-02  
Recommending the Prohibition of Short-Term Rental Housing.

For the past 16 months the Planning Commission has been working on the required update of the Town's Comprehensive Plan. Our current plan was last updated in June 2015 and the new updates are to be adopted by December 31, 2024. The periodic review and update is required by the state's Growth Management Act (GMA) and involves the review and, where required, revisions to comprehensive plan elements based on change of local conditions or recent legislative amendments.

One of the plan elements that we recently reviewed and discussed was the Housing Element. As you know, the 2023 legislative session made significant amendments to the GMA affecting the housing elements in local comprehensive plans. Most notably was the passage of two housing bills aimed at increasing affordable housing and supply.

House Bills 1110 and 1337, requires local jurisdictions to revise comprehensive plan policies and zoning regulations to enable additional housing units and accessory dwelling units (referred to as "Middle Housing" units) to be constructed in single family neighborhoods. At our November 1<sup>st</sup> Commission meeting we discussed how the addition of accessory dwellings units (ADUs) could contribute to housing affordability and increase the Town's overall housing supply.

However, a significant constraint to using ADUs to increase housing affordability and capacity is when ADUs are used for short term rentals (STRs). If used for short term rentals, the ADU is essentially removed from the housing supply since the unit is rented out for a limited period of 30 days or less and thus, unavailable for long term housing. Historically, the majority of short-term rentals occur in multi-family structures compared to single-family units (58% vs 42%). If Point Wells is developed according to urban village plans, many of the multi-family units could be used for STR versus permanent housing effectively increasing traffic through Woodway.

In January 2022, the Council directed the Planning Commission to conduct a public outreach program soliciting community input about short term rentals, conduct a public hearing and forward a recommendation to the Town Council. Pursuant to your request, the Commission conducted a public hearing in July 2022 and passed Resolution 2022-02 recommending that the zoning ordinance prohibit short term rentals. We understand that the ordinance adopting the Planning Commission's resolution was denied by the Town Council. Given the importance of increasing the opportunity for affordable housing

in Woodway, the Commission respectfully request that the Town Council reconsider its previous action prohibiting short term rental housing in Woodway.

Collectively, we believe that prohibiting middle housing units such as ADUs from being used for short term rental housing is in the best interest of Woodway.

Thank you for your consideration,

Per Odegaard, Chairman  
Woodway Planning Commission

Attachments: Staff Report dated July 6, 2022

Planning Commission Resolution No. 2022-02