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## **MEMO:**

**To:** Sedro-Woolley Planning Commission

**From:** Nicole McGowan  
Assistant Planner

**Date:** August 16, 2022

**Subject:** Proposed Regulations for Homeless Encampments at Religious Organizations

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## **ISSUE**

The Planning Commission is holding a public hearing on a proposed new chapter in Title 17 of the Sedro-Woolley Municipal Code (SWMC) to establish requirements for homeless encampments operated by religious organizations and associated amendments to Chapter 2.90 SWMC - Consolidated Planning Procedures - to address permitting for temporary homeless encampments. The proposed amendments can be found in **Attachment 1**.

## **PROJECT DESCRIPTION/HISTORY**

In 2010 the Washington State legislature enacted 35A.21.360 which preempted cities from prohibiting temporary homeless encampments or safe parking accommodations on religious properties. With some minor updates in 2020, this statute only allows a city to regulate these activities. This statute stems partly from various court cases around the county where local ordinances regulating panhandling and public sleeping/camping were found to violate the Constitution on the basis of the 1st, 4th, or 8th amendments in the Bill of Rights.

The resulting regulations in Washington state ensure that local governments may only reasonably regulate these activities on religious properties after finding that service to the poor and infirm is necessary component of many religious doctrines.

If the City does not enact reasonable regulations under RCW 35A.21.915 the default is that these activities are fully allowed only constrained by what the individual organizations impose.

The City has been notified by some religious organizations within city limits of their desire to host safe parking accommodations or potentially encampments. When staff were asked what process these organizations would have to follow to be allowed in the City, staff discovered that there were no regulations. In order to protect surrounding neighborhoods that may be affected by these activities and ensure that there is sufficient public notice and consistency throughout the City, it is necessary to adopt regulations that outline the minimum process and requirements that are acceptable to the City but still allowable under state law.

Attached are proposed amendments to Title 17 SWMC and Chapter 2.90 SWMC to create regulations for and a process for permitting homeless encampments at religious institutions. First, a new chapter 17.110 SWMC is proposed to specify how homeless encampments at religious institutions are regulated. There are two categories of use in that chapter: “temporary homeless encampments;” and “limited homeless encampment (safe parking) accommodations.”

The proposed chapter established the need for a permit to operate a temporary homeless encampment. The proposed criteria and permit process for a temporary homeless encampment permit – among other requirements – requires a public meeting, SEPA review and notice to the property owners within 1000’ of the site before the permit can be issued. See section 1 of the proposed ordinance for full details of the proposal.

Chapter 2.90 SWMC addresses permitting procedures, thus, “temporary homeless encampments” needed to be identified and discussed in Chapter 2.90 SWMC. The proposed amendments to 2.90 SWMC are in Sections 2 through 5 of the proposed ordinance. There is not a permit for safe parking accommodations. The new chapter describes the criteria by which those may be operated, but a permit for safe parking accommodations is not proposed.

## **ATTACHMENTS**

Attachment 1 – Proposed ordinance to establish a new chapter in Title 17 SWMC to establish requirements for homeless encampments operated by religious organizations and associated amendments to Chapter 2.90 SWMC - Consolidated Planning Procedures - to address permitting for temporary homeless encampments.

## **RECOMMENDATIONS**

Hold a public hearing on the proposed amendments to Title 17 regarding homeless encampments at religious institutions. Discuss the proposal and make a recommendation to the City Council.

- Make a motion to recommend that the City Council adopt the proposed amendments to Title 17 SWMC to establish requirements for homeless encampments operated by religious organizations and associated amendments to Chapter 2.90 SWMC - Consolidated Planning Procedures - to address permitting for temporary homeless encampments.

**AN ORDINANCE OF THE CITY OF SEDRO-WOOLLEY AMENDING THE SEDRO-WOOLLEY MUNICIPAL CODE TO AMEND CHAPTER 2.90 AND ADD CHAPTER 17.110 ENTITLED HOMELESS ENCAMPMENTS AT RELIGIOUS ORGANIZATIONS TO ADDRESS PERMITTING REQUIREMENTS, PROVIDING FOR SEVERABILITY, AND EFFECTIVE DATE.**

**WHEREAS**, homelessness is a recognized problem throughout the State of Washington and in Skagit County with a need for additional facilities to address temporary housing; and

**WHEREAS**, RCW 35.21.915 expressly authorizes religious organizations to host temporary encampments for homeless persons on property owned or controlled by religious organizations, and likewise authorizes cities to establish permit or other regulatory conditions necessary to protect public health and safety, provided, however, that they do not substantially burden the decisions or actions of religious organizations providing housing or shelter for homeless persons on property owned or controlled by religious organizations; and

**WHEREAS**, the City and its elected and appointed officials are committed to protecting the health, safety and well-being of its citizens; and

**WHEREAS**, the City does not seek to limit the Temporary Encampment to particular zoning districts in the city, and therefore allows them to be established in all areas as long as the proposed site is at least one (1) acre in size because this will lessen the health, safety and welfare impacts to existing uses located adjacent to Temporary Encampments; and

**WHEREAS**, the City Council finds that a site may only host a Temporary Encampment once every 12 months in order to lessen and disburse throughout the City the health, safety and welfare impacts to existing uses located adjacent to Temporary Encampment sites; and

**WHEREAS**, the City desires to enact this ordinance in order to set forth the requirements for the issuance of a temporary encampment use permit to an applicant wishing to host a homeless encampment; and

**WHEREAS**, the City, desires to establish a fee as set forth in the Master Fee schedule for the review and approval of a permit application for the placement of a temporary encampment. Pursuant to RCW 35.21.915, the City shall not impose permit fees in excess of the actual costs associated with the review and approval of the required permit applications for the placement of temporary encampments; and

**WHEREAS**, on \_\_\_\_\_, the proposed Zoning Code amendments related to temporary encampments were circulated to the State Agencies for the requisite review and comment period; and

**WHEREAS**, on \_\_\_\_\_, a State Environmental Policy Act ("SEPA") Determination of Nonsignificance ("DNS") was issued for the proposed action related to the temporary encampment and no appeals were filed; and

**WHEREAS**, on \_\_\_\_\_, the Department of Commerce received the proposed amendments related to temporary encampments pursuant to RCW 36.70A.106 for the State's procedural requirements for agency review; and

**WHEREAS**, on \_\_\_\_\_, the public was notified by a legal advertisement in the Skagit Valley Herald of the opportunity to make comment and participate in the public hearing held by the Planning Commission; and

**WHEREAS**, on \_\_\_\_\_, the Planning Commission conducted a public hearing on the Zoning Code amendments and formulated a recommendation to forward the amendments for City Council consideration; and

**WHEREAS**, on \_\_\_\_\_, the public was notified by a legal advertisement in the Skagit Valley Herald of the opportunity to make comment and participate in the public hearing by the City Council; and

**WHEREAS**, on \_\_\_\_\_, the City Council conducted a public hearing and considered all testimony prior to their decision;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY DO ORDAIN AS FOLLOWS:**

**SECTION ONE.** A new chapter SWMC 17.110 entitled "Homeless Encampments at Religious Organizations" is hereby added to read as follows:

17.110.010 Purpose.

17.110.015 Definitions.

17.110.020 Application for temporary homeless encampment permit.

17.110.030 Requirements for approval and operation.

17.110.040 Hardship exception.

17.110.050 Decision criteria.

17.110.060 Revocation of permit.

17.110.070 Limited homeless encampment (safe parking) accommodations.

### **17.110.010 Purpose.**

The purpose of this chapter is to regulate homeless encampments within the city of Sedro-Woolley in compliance with the requirements of RCW 35.21.915. The standards and requirements in this chapter are the minimum necessary to protect the public health and safety and do not substantially burden the decisions or actions of religious organizations regarding the location of housing or shelter for homeless persons on property owned by such religious organizations.

### **17.110.015 Definitions.**

The following words used in this chapter are defined as follows:

- A. “Director” means the director of the city of Sedro-Woolley’s Building and Development department or designee.
- B. “Encampment host” or “safe parking host” means a religious organization (including but not limited to an owner, tenant, or lessee) that has the legal right to occupy the site of a temporary homeless encampment and/or safe parking accommodations. An “encampment host” and/or a “safe parking host” may be the same individual, group, organization, or entity as the encampment sponsor or the encampment manager of a temporary homeless encampment.
- C. “Encampment manager” or “safe parking manager” means an individual, group, organization, or entity that organizes, manages or operates a temporary homeless encampment and/or safe parking accommodations. An “encampment manager” and/or “safe parking manager” may be the same individual, group, organization, or entity as the encampment host or the encampment sponsor of a temporary homeless encampment.
- D. “Encampment sponsor” or “safe parking sponsor” means an individual, group, organization, or entity which, in conjunction or by agreement with the encampment host or encampment manager, provides services or support on an ongoing basis for the residents of a temporary homeless encampment and/or safe parking accommodations. An “encampment sponsor” and/or “safe parking sponsor” may be the same individual, group, organization, or entity as the encampment host or the encampment manager of a temporary homeless encampment.
- E. “Limited homeless encampment (safe parking) accommodations” means areas on a site or property owned or controlled by a religious organization that accommodates vehicles in parking lots that individuals park and sleep within as means of shelter.
- F. “Temporary homeless encampment” means a temporary encampment for homeless persons on property owned or controlled by a religious organization, whether within buildings located on the property or elsewhere on the property outside of buildings. This definition does not include limited homeless encampment (safe parking) accommodations.

### **17.110.020 Application for temporary homeless encampment permit.**

A. A temporary homeless encampment is an allowed use only on property owned or controlled by a religious organization that is acting as either the encampment host or the encampment sponsor, or both, for the temporary homeless encampment.

B. Temporary homeless encampments shall not be permitted within the city except as an accommodation of religious exercise by an encampment host or encampment sponsor. Each encampment host, encampment manager and encampment sponsor of a temporary homeless encampment shall jointly apply for a permit under this chapter, and shall jointly certify compliance with all applicable use requirements and conditions of this part in the application.

C. An application for a temporary homeless encampment permit shall be submitted to the director or designee on a form approved by the director. The application shall contain an encampment management responsibility plan. An application that does not contain an encampment management responsibility plan shall not be considered complete. The encampment management responsibility plan shall contain, at a minimum, all of the following information:

1. The name, address, and telephone number of the encampment host, and the telephone number and email address for a designated representative of the encampment host; and
2. The name, address, and telephone number of the encampment sponsor and encampment manager, and the telephone number and email address for a designated representative of the encampment sponsor and encampment manager; and
3. The proposed location of the temporary homeless encampment and information as to whether the temporary homeless encampment will be located inside a building or outside a building on property owned or controlled by the encampment host; and
4. The date on which the temporary homeless encampment is proposed to move onto the proposed location and the date on which the temporary homeless encampment is proposed to vacate the proposed location; and
5. The maximum number of residents proposed; and
6. A site plan showing the proposed location of the facilities required by SWMC 17.110.030; and
7. A statement demonstrating how the temporary homeless encampment will meet the requirements of SWMC 17.110.030; and
8. A description of the security measures that the encampment host, encampment sponsor and encampment manager intend to employ at the proposed location, including criteria for rejection as a resident, a code of conduct, neighborhood security patrols, if any, whether and how they will implement outstanding warrant or registered sex offender background checks, and whether and how any temporary homeless encampment residents or prospective residents may be ejected from the temporary homeless encampment based on the results of such checks; and

9. A transportation plan demonstrating compliance with SWMC 17.210.030.

D. The application for a temporary homeless encampment permit must be accompanied by an application fee set forth in the Master Fee resolution.

E. An application for a temporary homeless encampment permit must be filed at least 30 days before the date on which the temporary homeless encampment is proposed to move onto the proposed location; provided, that the director may agree to a shorter period in the case of an emergency beyond the control of the encampment host and encampment sponsor.

F. An application for a temporary homeless encampment permit shall be processed as a Type II temporary homeless encampment permit under Chapter 2.90 SWMC subject to administrative appeal and final administrative decision by the city hearing examiner.

G. In addition to the requirements for a Type II permit under Chapter 2.90 SWMC, the following additional and amended procedures apply:

1. **Public Meeting Required.** The encampment host, manager and sponsor shall hold an informational public meeting that will be attended by the director. The public meeting shall be held as early in the review process as possible for the application. Notice of the public meeting shall be mailed to those property owners identified within subsection (G)(2) of this section. The public meeting notice will be combined with the notice of application whenever possible. Prior to the public meeting, the encampment host shall meet and confer with the Sedro-Woolley police department regarding the proposed security measures. At the public meeting, a representative of the encampment host shall present in writing and describe the proposed encampment management responsibility plan, and any input or comment received on the plan, including any comment or input from the Sedro-Woolley police department, or comment or input from schools and/or child care services under subsection (G)(2) of this section. The public meeting shall be attended by all applicants of the proposed temporary homeless encampment permit.

2. **Additional Mailed Notice.** The requirements for mailed notice of the application set forth for Type II permits under Chapter 2.90 SWMC shall be expanded to include owners of real property within 1000 feet of the project site. Prior to the decision of the director on a temporary homeless encampment permit, the encampment host, encampment sponsor, or encampment manager shall meet and confer with the administration of any public or private elementary, middle, junior high or high school within 1000 feet of the boundaries of the proposed temporary homeless encampment site, and shall meet and confer with the operators of any known child care service within 1000 feet of the boundaries of the proposed temporary homeless encampment site. The encampment host and the school administration and/or child care service operator shall make a good faith effort to agree upon any additional conditions that may be appropriate or necessary to address school and/or child care concerns regarding the location of a temporary homeless encampment within 1000 feet of such a facility. Any such conditions agreed upon between the parties shall be submitted to the director for consideration for inclusion within the temporary homeless encampment permit. In the event the parties fail to agree on any conditions, either party may provide the director with a written summary of the parties' discussions, which the director may consider in evaluating whether the criteria for the temporary homeless encampment

permit are met, or the need for additional conditions upon the temporary homeless encampment permit based on the applicable decision criteria.

3. The applicant shall provide notice of the application by posting two land use change signs on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The director shall establish standards for timing of installation and removal of the signs and the public meeting notice.

H. The director shall coordinate review of the temporary homeless encampment permit with appropriate city staff and with other appropriate public agencies, including, but not limited to, Skagit County public health department and the Sedro-Woolley fire department. The director may issue the temporary homeless encampment permit if the application demonstrates that:

1. All of the requirements of SWMC 17.110.030 are met; and
2. The temporary homeless encampment will not be materially injurious to the public health, safety, and welfare or materially injurious to the property or improvements in the immediate vicinity.

I. Decisions of the director granting, granting with conditions, or denying a temporary homeless encampment permit shall be subject to one open record administrative appeal to the hearing examiner who shall render a final administrative determination. The hearing examiner's decision shall be subject to appeal to the Skagit County superior court as provided in Chapter 36.70 RCW. In the event of any conflict with any other provisions of the Sedro-Woolley Municipal Code, this provision shall control over the provisions in Chapter 2.90 SWMC.

### **17.110.030 Requirements for approval and operation.**

A. A temporary homeless encampment must meet all of the following requirements in addition to any other requirements imposed by this chapter:

1. The property or building must be of sufficient size to accommodate the proposed number of tents and residents and the on-site facilities required by this section.
2. Adequate provision must be made for the provision of drinking water, disposal of human waste, disposal of garbage and other solid waste, and the provision of other services, including, but not limited to, the following facilities:
  - a. Sanitary portable toilets or other restroom facilities in the number required to meet health regulations for the residents and staff of the temporary homeless encampment; and
  - b. Hand washing stations by the toilets or restrooms and by food service areas; and
  - c. Refuse receptacles meeting the requirements of the city's solid waste division; and

d. A food service tent or other food service building or facility meeting health department requirements; and

e. A management tent or other management office or facility providing administrative and security services and readily identifiable to residents and visitors. Through the permit process a ratio of encampment staff to residents shall be established by the city. This ratio shall ensure the health and safety of the staff, residents, and surrounding neighbors.

3. Outdoor temporary homeless encampments shall meet all setbacks for the zoning district in which the property is located; provided, that where the temporary homeless encampment abuts property containing residential uses, the temporary homeless encampment shall be set back 20 feet from the property line or the minimum setback provided in the Sedro-Woolley Municipal Code, whichever is greater.

4. Outdoor temporary homeless encampments shall have a six-foot-tall sight obscuring fence provided around the perimeter of the temporary homeless encampment unless the director determines that there is sufficient vegetation, topographic variation, or other site conditions to provide equivalent screening of the use from adjacent properties.

5. Any and all exterior lighting for outdoor temporary homeless encampments shall be directed downward and away from adjacent properties to minimize light impacts.

6. The maximum number of residents within a temporary homeless encampment shall not exceed 35.

7. Parking for at a minimum five vehicles shall be provided.

8. No children under the age of 18 shall be allowed in the temporary homeless encampment. If a child under the age of 18 attempts to reside at the temporary homeless encampment, the encampment sponsor, the encampment host, or the encampment manager shall immediately contact child protective services.

9. No animals shall be permitted in the temporary homeless encampment, except for service animals.

10. The encampment sponsor and/or the encampment host shall submit a code of conduct for the temporary homeless encampment and a statement describing how the code of conduct will be enforced. The code of conduct shall, at a minimum, contain the following:

a. A prohibition on the possession or use of illegal drugs or alcohol.

b. A prohibition on the possession of guns, knives with blades in excess of three inches, and weapons of all kinds.

c. A prohibition on violence.

d. A prohibition on open flames.

e. A prohibition on trespassing into private property in the surrounding neighborhood.

f. Hours during which quiet is to be observed.

11. A transportation plan must be submitted providing for access to transit. All temporary homeless encampments must be located within one-half mile of transit service. This measurement shall be taken in a straight line from the closest property line where the temporary homeless encampment is proposed to the existing transit service provided by Skagit Transit. During hours when public transportation is not available, the encampment sponsor, encampment host, or encampment manager shall also make transportation available to anyone who is rejected from or ordered to leave the temporary homeless encampment.

12. The temporary homeless encampment must comply with all regulations of Washington State, the city of Sedro-Woolley, and the Skagit County public health department. The temporary homeless encampment shall comply with the requirements of the International Fire Code and Washington Cities Electrical Code as adopted by the city of Sedro-Woolley. The encampment sponsor and encampment host shall permit inspections at all reasonable times by appropriate public officials from the agencies enforcing these codes for code compliance.

13. The encampment sponsor shall take all reasonable and legal steps to obtain verifiable identification from prospective residents of the temporary homeless encampments and use the identification to obtain sex offender and warrant checks from the appropriate agency. If the warrant and sex offender check reveals that a prospective resident or existing resident is a sex offender who is required to register with police or that the prospective resident has an outstanding warrant, the encampment sponsor shall reject the prospective resident or evict the existing resident.

14. Adequate access for fire and emergency medical apparatus shall be provided.

15. Adequate separation between tents and other structures shall be to limit fire exposure and provide for emergency exiting by residents.

16. Temporary homeless encampment permits may be approved only once in a calendar year for no more than 180 consecutive days. These time limits shall apply to property where a temporary homeless encampment is permitted regardless of whether or not an encampment manager or sponsor is different. At least 90 days must elapse before a subsequent temporary homeless encampment may be located on any portion of property where a temporary homeless encampment was previously located. This provision does not preclude an encampment manager or sponsor from applying for a permit at a different encampment site more than 1,000 feet from the previous location.

#### **17.110.040 Hardship exception.**

An encampment host, encampment sponsor, or encampment manager may petition the director for an exception from any of the specific use requirements of SWMC 17.110.030 or other condition imposed by the director upon grounds of hardship. In considering whether a hardship exception should be granted, the director may consider whether the provision or provisions at issue substantially burden the siting or hosting of a temporary homeless encampment at a particular location or by a particular encampment host, encampment sponsor, or encampment manager, the effects on health and safety of residents and the community should the exception be granted, and whether a less restrictive, alternative means to achieve the health and safety objectives is proposed and/or is reasonably available.

#### **17.110.050 Decision criteria.**

The director may approve or approve with modifications an application for a temporary encampment permit if:

- A. The temporary homeless encampment complies with the use requirements set out in SWMC 17.110.030 and other applicable requirements of this chapter; and
- B. The temporary homeless encampment will not be materially detrimental to the public health, safety or welfare of the temporary homeless encampment residents or the surrounding community; and
- C. The imposition of a condition under which the city reserves the right to impose additional conditions or to reconsider the temporary homeless encampment permit within a certain time frame from approval date, based on substantiated complaints filed with the city.

#### **17.110.060 Revocation of permit.**

The director may revoke a temporary homeless encampment permit for violation of any of the requirements of this chapter. A decision of the director to revoke a temporary homeless encampment permit is an administrative decision processed in the same manner as a Type II temporary homeless encampment permit decision that may be appealed to the hearing examiner for final determination provided in Chapter 2.90 SWMC. The decision of the director to revoke a temporary homeless encampment permit shall be stayed during any appeal to the hearing examiner, but the stay will be lifted if the hearing examiner upholds the revocation. Decisions of the hearing examiner on a temporary homeless encampment permit revocation may be appealed to the Skagit County superior court as provided in Chapter 36.70 RCW.

#### **17.110.070 Limited homeless encampment (safe parking) accommodations.**

- A. Purpose. The purpose of this section is to provide homeless individuals with vehicles a place to temporarily park overnight to assist in transition to permanent housing.
- B. There is no permit, or permit fees, for safe parking accommodations. Safe parking accommodations are an allowed outright use, but are required to comply with the following:

1. The safe parking host, manager or sponsor must provide notice of the safe parking accommodations as required in subsection C of this section.
2. Vehicles that individuals park and sleep within as means of shelter are limited to one vehicle per every 10 on-site parking spaces in a parking lot located on property owned or controlled by a religious organization.
  - a. Parking must continue to abide by existing on-site parking minimum requirements so that the provision of safe parking spaces does not reduce the total number of available parking spaces below the minimum number of spaces required by the city. However, the city may enter into a memorandum of understanding with a safe parking host that reduces the minimum number of on-site parking spaces required.
3. Restroom access must be provided either within the buildings on the property or through use of portable facilities.
4. Access to a hand washing station and trash facilities shall be provided on the site during hours vehicles are allowed to remain.
5. The safe parking host shall provide immediate cleanup of any litter, wastewater, sewage, or waste material discharge onto or deposited upon the surface of the ground or parking area, whether as a result of leaks from plumbing fixtures, wastewater, sewage, or waste.
6. The safe parking host shall comply and enforce compliance of applicable state statutes and regulations and local ordinances concerning, but not limited to, drinking water connections, solid waste disposal, human waste, outdoor fire or burning, and electrical systems.
7. Safe parking accommodations can be located on a site for no more than a total of 180 days during any calendar year.
8. Safe parking host shall ensure that there is adequate noise dampening around the safe parking accommodations or shall ensure that no motors, generators, or other mechanical sounds occur during the hours of 10 p.m. to 7 a.m. so as to lessen the impact on surrounding neighborhoods.

C. Prior to the opening of safe parking accommodations the safe parking host shall put on a meeting open to the public for the purpose of providing a forum for discussion of related neighborhood concerns, unless the use is in response to a declared emergency.

1. **Public Meeting Required.** The encampment host, manager and sponsor shall hold an informational public meeting The public meeting shall be held as soon as practicable before the property begins accommodating safe parking. Notice of the public meeting shall be mailed to those property owners identified within subsection (2) of this section.
2. **Additional Mailed Notice.** The safe parking host shall ensure that notice of the proposed safe parking accommodations and public meeting is mailed to all property owners within 1000 feet of the proposed accommodations.

3. Prior to the opening of the safe parking accommodations the safe parking host shall complete a form provided by the city and shall provide the following information to the city. This information is required as it will allow the city to provide accurate information to the public regarding the safe parking accommodations.

a. The name, telephone number, and email address (if applicable) of at least two individuals responsible for receiving, responding, and resolving all complaints/concerns about the safe parking accommodations.

b. Dates that the limited safe parking accommodations will be located on a property.

c. The items listed in SWMC 17.110.020(C)(8) and 17.110.030(A)(10).

**SECTION TWO. Amendments to 2.90.060 to add “temporary homeless encampments” as a Type II permit.**

**2.90.060 Authority and responsibilities.**

A. Review Authority. Section 2.90.070(G), Land Use Permit Procedures, lists the development applications and outlines the responsible review authority associated with making recommendations, conducting open record public hearings, open record appeals, the responsible official for the permit decision, and appeal bodies.

B. Specific Responsibilities. The regulation of land development is a cooperative activity including many different elected and appointed boards and city staff. The specific responsibilities of these bodies are listed as set forth in subsections C through G of this section and Title 2.

C. Planning Director or Designee.

1. Authority. The planning director or designee shall review and act on the following:

a. Building and grading permits;

b. Binding site plan approval for commercial or industrial developments;

c. Environmental Review.

i. Make threshold determinations for environmental checklists;

ii. Authorize circulation of draft environmental impact statements;

iii. Approve and issue final environmental impact statements;

iv. Approve mitigation conditions for mitigated determinations of nonsignificance and final environmental impact statements;

- d. Interpretation of flood insurance rate map boundaries;
- e. Boundary line adjustments (B.L.A.);
- f. Modifications.
- i. Minor modifications to previously approved site plan;
- ii. Modifications of street standards;
- iii. Minor modifications of landscaping requirements;
- iv. Minor amendment to PUD;
- g. Planned action determinations;
- h. Review of business licenses for home occupations;
- i. Shoreline exemptions;
- j. Shoreline permits;
- k. Short plats—Nine or less;
- l. Temporary use permits;
- m. Variances—Administrative;
- n. Modifications of the number of required parking stalls and the requirements of the parking, loading and driveway regulations;
- [o. Temporary homeless encampment permits.](#)

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**SECTION THREE. Amendments to 2.90.070 to add “temporary homeless encampments” as a Type II permit.**

**Table 2.90.070(G)(1)—Permit Classification Table**

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Accessory Dwelling Unit	X					
Administrative Determination	X					
Binding Site Plan		X				
Boundary Line Adjustment	X					
Building Permit SEPA Exempt	X					
Code Interpretation	X					
Comprehensive Plan Map (and Rezone) or Text Amendments						X
Conditional Use Permit			X			
Design Review with Building Permit	X					
Design Review with Hearing Examiner Land Use Permit			X			
Development Agreement					X	
Development Regulation Text Amendments Referred to Planning Commission						X
Development Regulation Text Amendments Not Referred to Planning Commission					X	
Environmental Review		X				
Fence or Wall Permit	X					
Fill and Grade Permit	X					
Floodplain District Development Permit or Variance				X		
Home Occupation	X					
Landscape Modifications	X					
Major Modification PRD				X		
Master Plan Approval				X		
Minor Modifications	X					
Nonconforming Use—Ordinary Maintenance or Repair	X					
Nonconforming Use—Certificate of Use or Occupancy	X					
Nonconforming Use—Special Permission to Enlarge, Expand, or Reconstruct			X			

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Planned Action Determination		X				
Planned Action Ordinance						X
Planned Residential Development				X		
Plat, Preliminary				X		
Plat, Final					X	
Rezones Consistent with Comprehensive Plan				X		
Shoreline Conditional Use Permit			X			
Shoreline Exemption	X					
Shoreline Substantial Development Permit		X				
Shoreline Variance			X			
Short Plat		X				
Short Plat—When Hearing Requested			X			
Site Plan Approval	X					
Special Use Permit			X			
Street Vacations				X		
Street Design Modifications	X					
<a href="#">Temporary homeless encampments</a>		X				
Temporary Use Permit		X				
Variances			X			
Zoning Waivers	X					

**SECTION FOUR. Amendments to table 2.90.100(B) to add required materials necessary for a temporary homeless encampments permit application.**

**Table 2.90.100(B)—Land Use Application Submittal Requirements**

SUBMITTAL REQUIREMENTS TYPE OF APPLICATION	Access ory Dwellin g Unit	...	Special Use Permit	<a href="#">Temporary Homeless Encampment Permit</a>	Tempora ry Use Permit	...	Wetland Permit
10% notice of intent to annex							
60% petition to annex							
Affidavit of installation of public information sign			1		2		
Affidavit of mailout			1	<a href="#">1</a>			
Application fee	x		x	<a href="#">x</a>	x		
Assessment information							
Authorization for abatement					5		
Binding site plan map							
Business license application for home occupation							
Calculations, survey							
Colored display maps			1	<a href="#">1</a>			
Construction mitigation description			5		5		5
Covenant certifying owner resides at property (ADUs)	2						
Critical areas checklist				<a href="#">5</a>			5
Critical areas site assessment - 5 copies							5
Density worksheet							
Draft deed for any proposed dedication of land for public purposes							
Draft homeowners' association documents if applicable							
Draft restrictive covenants, if any							
Drainage control plan							5
Drainage report							4
Elevations, architectural					5		
Elevations, grading							4
<a href="#">Encampment management responsibility plan</a>				<a href="#">2</a>			
Environmental checklist				<a href="#">10</a>			
Existing covenants (recorded copy)							5
Existing easements (recording copy)							5

Final plat plan							
Floodplain map, if applicable				<u>10</u>	10		10
Floor plans	4			<u>5</u>	5		5
Geotechnical report					5		5
Grading plan, conceptual							
Grading plan, detailed							12
Joint aquatics resources permit application							
Justification for the comprehensive plan amendments and, if applicable, rezone							
Justification for the conditional approval permit (nonconforming structure)							
Justification for the conditional use permit request							
Justification for rezone							
Justification for variance request							
Skagit County assessor's map, indicating site							
Landscaping plan, conceptual			5				
Legal description			4		4		4
Legal description-Proposed							
Letter describing proposed home occupation							
Letter to examiner/council stating reason(s) for appeal							
Letter explaining which comprehensive plan text/policies should be changed, and why							
List of affected property owners within the annexation area boundary							
List of surrounding property owners			2	<u>2</u>	2		2
Lot line adjustment map							
Mailing envelopes for property owners (assessor's office list required)			2	<u>2</u>	2		2
Map of existing site conditions				<u>1</u>			
Master application form	1		10	<u>10</u>	5		
Mobile home park plan							

Monument cards (one per monument)							
Mylars (signed)							
Neighborhood detail map			10	<u>10</u>	5		
Parking, lot coverage and landscaping analysis			5				
Planned action application							
Plat certificate							
Postage for each set of mailing			2	<u>2</u>	2		2
Preapplication meeting summary, if any			5	<u>5</u>	5		7
Preliminary plat plan							
Project narrative	2		10	<u>10</u>	10		
Proposal (non-project, e.g., draft ordinance, plan or policy)							
Proposal summary (non-project)							
PUD water availability letter							
Screening detail, refuse/recycling				<u>10</u>			
Short plat plan							
Short plat plan, final							
Site plan, land use review	4		10	<u>10</u>	5		10
Site plan, shoreline permit							
Title report	1		1				1

**SECTION FIVE. Amendments to 2.90.100(C)(6) to add defined term.**

5. Definitions E.

“Easements, existing” means a recorded document by the property owner granting one or more privileges to use the owner’s land to and/or for the use by the public, a corporation or another person or entity. Easements may be referenced by property deed and are identified in the property title report.

“Easements, proposed” means a draft document, including proposed legal description, listing to whom and for what specific purpose or purposes the easement is to be granted.

“Elevations, architectural” means a twenty-four-inch by thirty-six-inch fully dimensioned architectural elevation plan drawn at a scale of one-fourth inch equals one foot or one-eighth inch equals one foot (or other size or scale approved by the building official) clearly indicating the information required by the permits section of the currently adopted International Building Code and Chapter 19.27 RCW (State Building Code Act, Statewide amendments), including, but not limited to, the following:

- a. Existing and proposed ground elevations;
- b. Existing average grade level underneath proposed structure;
- c. Height of existing and proposed structures showing finished roof-top elevations based upon site elevations for proposed structures and any existing/abutting structures;
- d. Building materials and colors including roof, walls, any wireless communication facilities, and enclosures;
- e. Fence or retaining wall materials, colors, and architectural design;
- f. Architectural design of on-site lighting fixtures; and
- g. Cross-section of roof showing location and height of roof-top equipment (include air conditioners, compressors, etc.) and proposed screening.

[“Encampment management responsibility plan” means a written plan addressing the criteria listed in Section 17.110.020 Homeless Encampments at Religious Organizations.](#)

“Energy Code Checklist, Nonresidential” means the standard Washington State Energy Office form requesting the information required under Chapter 51-11 WAC detailing building components to be used to comply with the State Nonresidential Energy Code.

“Energy Code Checklist, Residential” means the standard Washington State Energy Office form requesting the information required under Chapter 51-11 WAC or city-provided form detailing building components to be used to comply with the State Residents Energy Code.

“Engineering geologist” means a licensed geologist who is experienced and knowledgeable in engineering geology.

“Engineering geology” means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

“Engineering geology report” means a report that includes an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development.

“Environmental checklist” means the standard state of Washington form required under WAC 197-11-742 and 197-11-960.

“Erosion control plan, temporary” means drawings of the entire site showing the proposed erosion control measures for the project in conformance with the city of Sedro-Woolley drafting standards (or as approved by the public works department) and 2005 Department of Ecology’s Storm Water Management Manual for Western Washington as adopted by the city of Sedro-Woolley.

“Tree cutting/land clearing (tree inventory) plan” means a plan, based on finished grade, drawn to scale with the northern property line at the top of the paper clearly showing the following:

- a. All property boundaries and adjacent streets;
- b. Location of all areas proposed to be cleared;
- c. Types and sizes of vegetation to be removed, altered or retained. This requirement applies only to trees eight inches in diameter for evergreens and ten inches in diameter for deciduous trees at a point five feet from the ground, and larger;
- d. Future building sites and drip lines of any trees which will overhang/overlap a construction site; and
- e. Location and dimensions of rights-of-way, utility lines, and easements.

**SECTION SIX. Severability.** If any section, sentence, clause, or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or

unconstitutionality shall not affect the validity or constitutionality of any section, sentence, clause, or phrase of this Ordinance.

**SECTION SEVEN. Authority to Make Necessary Corrections.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbers, section/subsection numbers, and any references thereto.

**SECTION EIGHT. Conflict.** In the event that there is a conflict between the provision of this Ordinance and any other City ordinance, the provision of this Ordinance shall control.

**SECTION NINE. Effective date.** This Ordinance shall take effect five days after its publication by summary.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

THE CITY OF SEDRO-WOOLLEY

By \_\_\_\_\_

Julia Johnson, Mayor

Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_

\_\_\_\_\_, City Clerk

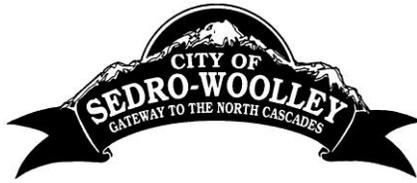
Approved as to Form:

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Nikki Thompson, City Attorney

Published: \_\_\_\_\_

DRAFT



**Planning Department**  
Sedro-Woolley Municipal Building  
325 Metcalf Street  
Sedro-Woolley, WA 98284  
Phone (360) 855-0771  
Fax (360) 855-0733

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## **MEMO:**

**To:** Sedro-Woolley Planning Commission

**From:** John Coleman, AICP  
Planning Director

**Date:** November 15, 2022

**Subject:** Requested Amendments to Allow ADUs with Spec Homes in New Developments

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## **ISSUE**

The city has received a request (Attachment 1) to amend the existing accessory dwelling unit (ADU) regulations. The Planning Commission first reviewed the proposal at its September 20, 2022 meeting. The purpose of today's presentation is to review the request in detail, hear from the proponent and determine if staff should draft amendments to Chapter 17.100 SWMC to thoroughly incorporate the proposed use.

## **PROJECT DESCRIPTION/HISTORY**

In March of 2020 the city passed regulations to allow ADUs in the Residential 1, Residential 5 (R-5) and Residential 7 (R-7) zones. These regulations include specific criteria for how ADUs shall be constructed and under what scenarios they are allowed. The regulations are codified in Ch 17.100 (<https://www.codepublishing.com/WA/SedroWoolley/#!/SedroWoolley17/SedroWoolley17100.html#17.100>) of the Sedro-Woolley Municipal Code (SWMC). The purpose and intent of the ADU regulations are specified in SWMC 17.100.010:

The purpose of an accessory dwelling unit (ADU) is to:

- A. Add affordable units to existing housing and make housing units available to moderate-income residents who might otherwise have difficulty finding homes within the city.
- B. Provide homeowners with a means of obtaining, through tenants in either the accessory dwelling unit or the principal residence, rental income, companionship and/or security.
- C. Protect neighborhood stability, property values and the single-family residential appearance of the neighborhood by ensuring that accessory dwelling units are installed under the conditions of this title.

Before a new ADU may be constructed in the city, the property owner must obtain an ADU permit from the Planning Department. Once the ADU permit is issued, the applicant may submit a building permit application for the construction the ADU (or remodel part of an existing structure to be an ADU). SWMC 17.100.030 includes the many specific criteria to which the ADU must adhere. Some of the more significant (but not all) requirements for ADUs are as follows: ADUs may be either attached or detached from the main home. The ADU must be more than 250 square feet and may not be more

than 800 square feet or no more than sixty-six percent of primary dwelling floor area, whichever is smaller. One off-street parking space is required for the ADU. The property owner must occupy either the principal unit or the accessory dwelling unit. The current owner will notify prospective purchasers of the limitations on ADUs. Upon sale of the property, a new owner shall be required to amend the ADU development authorization application and sign a new affidavit stating that the owner will live on site. Chapter 17.100 SWMC as currently enacted is in Attachment 2.

Many builders, including the local developer BYK Construction, construct residential homes “on spec.” In other words, they build a home on the speculation that someone will buy the house. Most of the homes in new subdivisions are built on speculation; this kind of house is called a spec home. When the permits for a spec home are issued, the owner of the property is the developer. The homes are not sold prior to the permitting process for the home.

The ADU regulations were written with the existing homeowner in mind. The code does not permit builders of spec homes to construct an ADU with a new home with because, as mentioned above, the property owner must live in the main house or the ADU for an ADU permit to be issued (see SWMC 17.100.030(K)). Because the builder will not be living in the home, the Planning Department cannot issue an ADU permit to a spec builder.

To address this nuance of the code, BYK Construction submitted a code amendment request to modify the ADU regulations to allow for new spec homes to be built with an associated ADU.

At today’s meeting the PC will discuss the proposal and continue the conversation about the purpose of the ADU regulations and how they relate to the proposal. Some issues to consider are:

- Does allowing spec homes to be built with ADUs meet the intent of the ADU code and Comprehensive Plan?
- If ADUs are built as part of a new development, does that change the perspective of the property owners in that neighborhood on ADUs?

The Planning Commission will review the request in further detail at subsequent Planning Commission meetings and more detailed code amendments may be presented once the PC has given guidance as to if and how to address the issue. After thorough review of a draft code change, the PC may make a recommendation to the City Council. The City Council will then have the option to take action on the Planning Commission’s recommendation.

Representatives from BYK were not able to attend the previous Planning Commission meeting on the proposal. The applicant will be at today’s meeting to further explain their request.

## **ATTACHMENTS**

Attachment 1 – Request from the BYK Construction to amend the existing ADU regulations in the Urban Village Mixed Use Overlay

Attachment 2 – Draft amendments to Chapter 17.100 – ADU Zoning regulations

## **RECOMMENDATIONS**

Discuss proposed amendments and be prepared to request any additional information that may be presented at the next Planning Commission meeting.

# **Attachment 1**

to November 15, 2022 Planning Commission ADU Amendments memo –  
Request from BYK Construction to amend the existing ADU regulations in Ch. 17.100 SWMC



**BYK Construction, Inc.**  
702 Metcalf St, Ste A  
Sedro-Woolley, WA 98284  
Phone: 360.755.3101

August 1, 2022

City of Sedro-Woolley  
John Coleman, Planning Director  
325 Metcalf Street  
Sedro-Woolley, WA 98284

RE: Accessory Dwelling Unit proposed Code Amendment

Dear Mr. Coleman,

With this letter we are requesting to add language to the City of Sedro-Woolley Zoning Code, Section 17.100.030 Standards and Criteria. The proposed language is attached for your review along with a non-project related SEPA Checklist.

Please let me know if there is anything else you need. Thank you in advance for your time.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Woodmansee', is written over a faint blue circular stamp.

Paul Woodmansee, President  
BYK Construction, Inc.



City of Sedro-Woolley Zoning Code proposed Amendment to 17.100.030 Standards and Criteria.

With this request we are asking to update the code language to add requirements for spec homes being built with ADU's

K. The property owner, which shall include title holders and contract purchasers, must occupy either the principal unit or the accessory dwelling unit as their permanent residence for more than six months out of each year. The owner shall record a covenant with the Skagit County auditor stating that the owner resides at the property; the covenant shall be approved by the director. The property owner shall submit proof that the covenant has been recorded with the Skagit County auditor's office prior to issuance of the building permit.

**Added Language:** *If the property is being permitted for construction by a Builder as part of a spec home for sale, the Builder must acknowledge the requirement of the covenant with the closing of the property. During the closing process the covenant will be signed by the buyer and recorded by the Title company. The buyer is required to submit the recorded covenant to the City of Sedro-Woolley with the new Property Owner's information.*



# Attachment 2

to November 15, 2022 Planning Commission ADU Amendments memo – Existing text of Chapter 17.100 SWMC

## Chapter 17.100 ACCESSORY DWELLING UNITS (ADUS)

Sections:

[17.100.010 Purpose and intent.](#)

[17.100.020 Permit required.](#)

[17.100.030 Standards and criteria.](#)

### 17.100.010 Purpose and intent.

The purpose of an accessory dwelling unit (ADU) is to:

- A. Add affordable units to existing housing and make housing units available to moderate-income residents who might otherwise have difficulty finding homes within the city.
- B. Provide homeowners with a means of obtaining, through tenants in either the accessory dwelling unit or the principal residence, rental income, companionship and/or security.
- C. Protect neighborhood stability, property values and the single-family residential appearance of the neighborhood by ensuring that accessory dwelling units are installed under the conditions of this title. (Ord. [1954-20](#) § 1 (Exh. A)(part), 2020)

### 17.100.020 Permit required.

A development authorization application is required for all accessory dwelling units. Application for an ADU shall be made in accordance with the permit procedures established in Chapter [2.90](#). The director shall have the authority to approve accessory dwelling units (ADUs) which are consistent with single-family neighborhood character and the regulations and provisions herein. It is not the intent of these regulations to provide for ADUs on every residential property and they shall not be deemed to create a right or privilege to establish or maintain an ADU which is not strictly in compliance with these regulations. (Ord. [1954-20](#) § 1 (Exh. A)(part), 2020)

### 17.100.030 Standards and criteria.

Accessory dwelling units shall meet the following criteria:

- A. Accessory dwelling units are subject to the codes, regulations, and statutes adopted by reference in Chapter [15.04](#). The design and size of the accessory dwelling unit shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes. When there are practical difficulties involved in carrying out the provisions of this title, the

director or a designee may recommend modifications that will meet the intent of these codes. Such modifications shall be processed as a variance under this title.

B. ADUs are permitted on lots with one single-family home. The lot may not contain more than one primary dwelling unit.

C. Only one ADU shall be permitted per lot.

D. An accessory dwelling unit may be attached or detached from the principal unit.

E. An accessory dwelling unit may be established in an existing single-family dwelling unit or in a detached structure on a legal building lot by any one or by a combination of the following methods:

1. Alteration of interior space of the dwelling; or
2. Conversion of an attic, basement, attached or detached private garage, or other previously uninhabited portion of a dwelling; or
3. Addition of attached living area onto an existing dwelling; or
4. Construction of a detached living area.

F. The maximum size of an accessory dwelling shall not exceed eight hundred square feet, or no more than sixty-six percent of primary dwelling floor area, whichever is smaller. The maximum height of an ADU shall not exceed twenty feet; except the height of a structure containing an ADU over a garage (carriage house) may be increased to twenty-five feet to match the existing roof pitch of the primary residence.

G. The minimum size of an accessory dwelling unit shall not be less than two hundred five square feet.

H. The accessory dwelling unit must have a separate entrance from the primary unit.

I. The ADU shall be billed as a unit for monthly city utility billing purposes. Utilities between the primary dwelling unit and the ADU may be shared and may require upgrades to be in compliance with utility regulations. In all cases, the utility service shut-offs must be accessible to occupants of both units.

J. One off-street parking space is required in addition to the off-street parking spaces required for the principal residence. Parking must be provided on the subject property, either off of an alley or on a driveway. When the property abuts an alley, the off-street parking space for the accessory dwelling unit shall gain access from the alley. Parking shall be developed in accordance with the standards in Chapter [17.36](#).

K. The property owner, which shall include title holders and contract purchasers, must occupy either the principal unit or the accessory dwelling unit as their permanent residence for more than six months out of each year. The owner shall record a covenant with the Skagit County auditor stating that the owner resides at the property; the covenant shall be approved by the director. The property owner shall submit proof that the covenant has been recorded with the Skagit County auditor's office prior to issuance of the building permit.

The planning director may waive this requirement for temporary absences of less than one year, where the accessory unit has been a permitted use for at least two years and the owner submits proof of absence from the region.

L. The current owner will notify prospective purchasers of the limitations on ADUs.

M. Upon sale of the property, a new owner shall be required to amend the ADU development authorization application, sign a new affidavit stating that the owner will live on site and pay the Sedro-Woolley ADU reauthorization fee.

N. The ADU may not be segregated in ownership from the principal dwelling unit.

O. All accessory dwelling units shall also be subject to the condition that such a permit shall automatically expire whenever:

1. The accessory dwelling unit is substantially altered and is thus no longer in conformance with the approved plans; or
2. The subject lot ceases to maintain at least three off-street parking spaces; or
3. The owner ceases to own or reside in either the principal or the accessory dwelling unit as specified in subsection K of this section.

P. Recreational vehicles, "park models" or temporary housing shall not be utilized as an accessory dwelling unit.

Q. The accessory and principal dwelling unit shall comply with all applicable requirements of the International Residential Code and zoning ordinance as adopted or amended by the city.

R. A permit for an accessory dwelling unit shall not be transferable to any lot other than the lot described in the application.

S. No more than four occupants may reside in an ADU, regardless of relationship.

T. ADUs shall look like a residential building and resemble the primary dwelling. Metal sided buildings (such as buildings that were originally designed as a shop or garage) must be improved to resemble the primary dwelling. The planning director may approve alternate design of detached ADUs if the proposed building meets the design standards for residential buildings in a planned

residential development. This clause is intended to allow for ADU designs that are aesthetically interesting but may not resemble the architecture of the primary dwelling. There are many off-the-shelf ADU designs that provide a high level of aesthetic interest, but may not be similar to the primary dwelling.

U. The address of the ADU shall be the same as the main house with a “b” added to the end of the address number.

V. Short-term rentals are not permitted on properties with an accessory dwelling unit.

W. The owner of any accessory dwelling unit established prior to the effective date of the ordinance codified in this chapter may submit application to the city to legally permit the existing unit pursuant to the provisions of this chapter. If application is made within eighteen months from the effective date of the ordinance codified in this chapter, no penalty shall be imposed for the maintenance of the nonpermitted accessory dwelling unit.

If the owner of an existing unauthorized ADU applies to make the unit legal, but cannot meet all of the standards, the owner will be allowed a “grace period” of six months from date of application to comply with applicable standards. However, where health and safety is an issue, the building official will determine when the necessary modifications must be made. If the owner cannot meet the standards, the unauthorized accessory unit must be removed or its use as a dwelling must be suspended. (Ord. [1954-20](#) § 1 (Exh. A)(part), 2020)