Exhibit A: 2022 Miscellaneous Code Amendments

As recommended by Planning Commission, 12/8/22; Item #9 revised per County Council Direction, 3/7/233 (revisions highlighted in yellow)

1) Require written concurrence from agencies with jurisdiction regarding building heights around airports.

The lands around the airport have supplementary height limits, which are shown in the map of FAR Part 77 imaginary surfaces (Appendix H of the Comprehensive Plan). These height limits are lower near the runway and increase with distance from the flight paths (imagine the shape of stadium seating, though a bit more complicated). However, staff has difficulty in interpreting the map, and would like the airport administration and the Federal Aviation Administration (FAA) (i.e., agencies with jurisdiction) to weigh in on staffs' interpretation. Thus, we would like require that applicants submit their proposals to those agencies for review, and have their written interpretations and concurrence that the project will not hinder airport operations (and not just for variances, as currently required).

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.675 Height limitations surrounding airports.

(1) No structure shall exceed the height of the imaginary surfaces defined in Federal Aviation Regulations (FAR) Part 77 around airports that have mapped such imaginary surfaces (airports that have mapped Part 77 imaginary surfaces are shown in Appendix H of the Whatcom County Comprehensive Plan). This restriction shall not apply to single-family residences and accessory structures that have a building height of 30 feet or less.

(2) Applicants for permits within the area covered by the FAR Part 77 imaginary surfaces map shall provide correspondence from both the Federal Aviation Administration and an official representative of the airport providing their concurrence that the proposed development meets subsection (1) and will not create a hazard to air navigation.

(3) The Hearing Examiner shall have the authority to grant a variance from the height limits of subsection (1) ~~of this section~~.

~~(2)~~(a) The variance application shall be accompanied by~~:~~ letters from both the Federal Aviation Administration and an official representative of the airport evaluating the effects of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. If neither ~~the Federal Aviation Administration or the official representative of the airport~~agency ~~fails to~~ responds ~~within 45 days~~ to a written request by the applicant to evaluate the proposal within 45 days, the variance application may be submitted without the evaluation(s) required ~~by subsection (3) of this section~~.

~~(a) A letter from the Federal Aviation Administration evaluating the effects of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace; and~~

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~~(b) A letter from an official representative of the airport evaluating the effects of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.~~

~~(c) If the Federal Aviation Administration or the official representative of the airport fails to respond within 45 days to a written request by the applicant to evaluate the proposal, the variance application may be submitted without the evaluation(s) required by subsection (3) of this section.~~

~~(d)~~(b) The variance criteria of WCC 22.05.024 shall not apply. Such ~~A~~ variances may be granted if the Hearing Examiner finds that:

i. The strict application of the height limit will result in unnecessary hardship; and
ii. The height proposed will not be contrary to the public interest and will not create a hazard to air navigation.

~~(e)~~(c) No variance shall be granted that authorizes a use that is not allowed by the underlying zoning.

~~(3) The variance criteria of WCC 22.05.024 shall not apply.~~

2) Fix a few inconsistencies regarding public utilities regulations.

WCC 20.82.020 allows *publicly-owned fire flow* tanks under 50,000 gallons in volume and 12 feet or less in height as a Permitted Use; those over those limits require a Conditional Use Permit. However, the code is silent on water storage tanks meeting those limits but for purposes other than fire flow (e.g., drinking water). (Privately-owned tanks meeting those limits are allowed as an accessory use when a primary use is present.)

Staff doesn't know the reason these smaller tanks are allowed if they're for fire flow, but not allowed if they're for other uses. We would like to amend the code to allow *all* water storage tanks that do not exceed 50,000 gallons and are 12 feet or less in height as a Permitted Use, regardless of their purpose.

Additionally, all of our regulations regarding public utilities are generally found in Chapter 20.82 (though certain types—e.g., wireless communications facilities, wind energy systems, and pipelines—have additional regulations in Chapters 20.13, 20.14, and 20.81). §20.82.020 and 20.82.030, respectively, specify what types of utility infrastructure are permitted and conditional uses for all zones. However, only 3 zoning district regulations list public utilities as either permitted or conditional uses (essentially repeating what's found in Chapter 20.85), while the other 25 do not, which can lead to confusion. Staff would like to delete the listings of public utilities in these district regulations and rely on Chapter 20.82 as we do for the other zoning districts.

TITLE 20 ZONING

Chapter 20.82 Public Utilities

20.82.020 Permitted uses.

(…)

.023 Water storage tanks owned and operated by a public utility ~~for the sole purpose of providing required fire flow~~; provided, that the volumes do not exceed 50,000 gallons and height is not in excess of 12 feet above the ground level measured within 20 feet in all directions of the tank. A privately-owned water storage tank constructed ~~to provide fire flow~~ for a singular use or property and maintained by the property owner(s) is considered an accessory use to the primary permitted or conditionally

permitted use that is to be protected by fire flow supplied from the tank and not subject to regulation as a public utility; provided, the height does not exceed the maximum height allowed in the underlying zone.
(…)

Chapter 20.40 Agriculture (AG) District

20.40.150 Conditional Uses
(…)
~~**.156** Public utilities pursuant to WCC 20.82.020.~~
(…)

Chapter 20.59 Rural General Commercial (RGC) District

20.59.050 Permitted Uses
(…)
.056 Public and community type uses.
~~(1) Public utilities, except broadcast towers, which require a conditional use permit pursuant to WCC 20.82.030(5), and water and sewer treatment plants, which require a conditional use permit pursuant to WCC 20.82.030(8).~~
(…, and renumber subsequent list)

Chapter 20.62 General Commercial (GC) District

20.62.050 Permitted Uses
(…)
~~**.061** Public utilities, except broadcast towers, which require a conditional use permit pursuant to WCC 20.82.030(5), and water and sewer treatment plants, which require a conditional use permit pursuant to WCC 20.82.030(8).~~
(…)

3) Revise the definition of "non-industrial buildings" to include other non-industrial uses.

The HII District has large setbacks (100') and buffers (100' – 660') so as to minimize impacts from heavy industrial uses on neighboring properties. However, it does allow smaller (30') LII setbacks for "non-industrial buildings" and "uses other than heavy industrial." But the definition of "non-industrial buildings" (see below) is limited to public uses and restaurants; it doesn't include other non-industrial uses allowed in the HII (e.g., office buildings). Requiring the large 100' setbacks for uses that don't create the same types of impacts as heavy industrial uses doesn't make sense in terms of impact reduction, and uses up more land. Therefore, staff would like to amend the definition of non-industrial buildings so as to make it broader. This will allow non-industrial uses in the HII district to apply the lesser LII setbacks.

TITLE 20 ZONING

Chapter 20.97 Definitions

20.97.272 Nonindustrial buildings.
"Nonindustrial buildings" means those buildings allowed within an Industrial District that house ~~those~~ uses ~~contained within the category of public uses, or the category of restaurants, cafes and cafeterias~~other than industrial.

4) Add a definition of "self-service storage facility," standardize the various terms used for this type of facility, and allow them in the LII district.

Self-service storage facilities are allowed in several of our zones, but the terms used differ (see below table). Nor are the terms used defined, leading to confusion.

Staff would like to add a definition of "self-service storage facility" and standardize the various terms used for this type of facility. The proposed definition is taken from RCW 19.150.010(10), the definition section for the state regulations for this use.

POLICY CHANGE: Additionally, staff believes this type of use would be appropriate in the Light Impact Industrial and Heavy Impact Industrial districts, and propose to add them as Permitted Uses.

Term Used	Zoning District			
	STC	RGC	GC	NC
Mini-storages				
o totaling less than 2,500 square feet of floor area	P (20.61.052(1))			
o with less than 10,000 square feet of floor area	C (20.61.203)			
Mini storage facilities	Prohibited in PRSD (20.72.062)			
Rental storage establishments		P (20.59.052(1))	P (20.62.062)	
Commercial storage of personal recreational boats and trailers, recreational type vehicles and accompanying mini-storage; provided, that: (a) Security for the site shall be provided by the applicant; (b) No engine repairs or oil changes shall be made on the subject site; (c) Adequate water supply and wastewater disposal for washdown facilities shall be demonstrated by the applicant.				C (20.60.153(1))

TITLE 20 ZONING

Chapter 20.59 Rural General Commercial (RGC) District

20.59.050 Permitted uses.
Unless otherwise provided herein, permitted and conditional uses shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC (Supplementary Requirements) and Chapter 22.05 WCC

(Project Permit Procedures). In a rural community designation, nonresidential uses listed below are permitted if a use of the same type existed in that same rural community designation on July 1, 1990, per WCC 20.80.100(1). In a rural business designation all uses are permitted. Residential type uses listed below are permitted in rural community and rural business designations.

.052 Self-service storage facilities~~Storage and warehousing type uses~~.

~~(1) Rental storage establishments.~~

Chapter 20.60 Neighborhood Commercial Center (NC) District

20.60.150 Conditional uses.

In a rural community designation, uses listed below may be conditionally permitted if a use of the same type existed in that same rural community designation on July 1, 1990, per WCC 20.80.100(1). In a rural business designation all uses listed below may be conditionally permitted. Unless otherwise provided herein, conditional uses shall be administered pursuant to the applicable provisions of Chapter 22.05 WCC (Project Permit Procedures), the Whatcom County SEPA Ordinance, the Official Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program.

(…)

.153 Self-service storage facilities for~~Storage and warehousing type uses.~~

~~Commercial storage of~~ personal recreational boats and trailers, recreational type vehicles, and accompanying ~~mini-storage~~equipment; provided, that:

~~(a)~~(1) Security for the site shall be provided by the applicant;

~~(b)~~(2) No engine repairs or oil changes shall be made on the subject site;

~~(2)~~(3) Adequate water supply and wastewater disposal for washdown facilities shall be demonstrated by the applicant.

(…)

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Chapter 20.61 Small Town Commercial (STC) District

20.61.050 Permitted uses.

In a rural community designation, nonresidential uses listed below are permitted if a use of the same type existed in that same rural community designation on July 1, 1990, per WCC 20.80.100(1). In a rural business designation all uses are permitted. Residential type uses listed below are permitted in rural community and rural business designations.

(…)

.052 Self-service storage facilities~~Storage and warehousing type uses.~~

~~(1) Mini-storages~~ totaling less than 2,500 square feet of floor area.

(…)

20.61.200 Conditional uses.

In a rural community designation, uses listed below may be conditionally permitted if a use of the same type existed in that same rural community designation on July 1, 1990, per WCC 20.80.100(1). In a rural business designation all uses listed below may be conditionally permitted.

(…)

.203 Self-service storage facilities~~Storage and warehousing type uses.~~
~~(1) Mini-storage with~~totaling less than 10,000 square feet of floor area.
(…)

Chapter 20.62 General Commercial (GC) District

20.62.050 Permitted uses.
Unless otherwise provided herein, permitted and conditional uses shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC (Supplementary Requirements) and Chapter 22.05 WCC (Project Permit Procedures), the Whatcom County SEPA Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program.
(…)
.062 Self-service storage facilities~~Rental storage establishments~~.
(…)

Chapter 20.66 Light Impact Industrial (LII) District

20.66.050 Permitted uses.
Unless otherwise provided herein, permitted and accessory uses shall be administered pursuant to the applicable provisions of Chapters 16.08 WCC (SEPA), 20.80 WCC (Supplementary Requirements) and 22.05 WCC (Project Permit Procedures), and WCC Titles 21 (Land Division Regulations) and 23 (Shoreline Management Program).
(…)
.096 Self-service storage facilities
(…)

Chapter 20.68 Heavy Impact Industrial (HII) District

20.68.050 Permitted uses.
Unless otherwise provided herein, permitted and accessory uses shall be administered pursuant to the applicable provisions of Chapters 16.08 WCC (SEPA), 20.80 WCC (Supplementary Requirements) and 22.05 WCC (Project Permit Procedures), and WCC Titles 21 (Land Division Regulations) and 23 (Shoreline Management Program). The purpose of the SIC numbers listed within this chapter is to adopt by reference other activities similar in nature to the use identified herein. (Policies of the subarea Comprehensive Plan may preclude certain permitted uses to occur in particular subareas. Please refer to the policies of the applicable subarea plan to determine the appropriateness of a land use activity listed below.)
(…)
.110 Self-service storage facilities
(…)

Chapter 20.72 Point Roberts Special District

20.72.200 Prohibited uses.
In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited:
(…)
.204 The following uses are prohibited in the Small Town Commercial Zone District:
(…)
(1) ~~Mini-~~Self-service storage facilities.
(…)

Chapter 20.97 Definitions

20.97.361.1 Self-service storage facility.
"Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property on a self-service basis, but does not include a garage or other storage area in a private residence, nor storage of imported vehicles awaiting customs clearance. No occupant may use a self-service storage facility for residential purposes.

5) Allow HVAC systems within front, rear, and side yard setbacks.
So as not to impede access for firefighters, most obstacles are not allowed in sideyard setbacks, though there are a few exceptions (see §20.80.220, below). But with heat pumps becoming more common and smaller in size, staff believes they and other HVAC equipment should be included in the list of exceptions (subject to size limitations in the side yard, per the Fire Marshall). Thus, staff is proposing the following amendments:

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.220 Use of setback areas.
All setback measurements are minimum requirements. All front yard and rear yard setback areas shall be open from side-to-side of the lot except as otherwise provided by the following:
(1) Front Yards.
  (a) Appurtenances, including but not limited to: uncovered patios and decks less than 30 inches in height; driveways and walkways; pools and other recreation equipment; utilities, including HVAC equipment, septic systems, and propane tanks with fuel capacities up to 500 gallons; and fences, walls, and vegetative hedges up to four feet in height may be placed in this front yard setback area subject to the limitations of WCC 20.80.210(3) (Vision Clearance); and provided, that:
    (i) The location of propane tanks with fuel capacities up to 500 gallons is restricted to the rear 50% ~~percent~~ of front yard setbacks. All such propane tanks shall be:

(A) Inspected and approved by the Whatcom County fire marshal for compliance with the most currently adopted International Fire Code and, when required by the fire marshal, isolated from other uses by a noncombustible wall or fence; and
(B) Screening by a fence or with shrub vegetation planted to a minimum height of six inches above the top surface of the propane tank is encouraged.

(b) Signs approved for use in a front yard area shall be subject to the limitations of WCC 20.80.410 and/or WCC 20.80.215 as applicable.
(c) Outside of urban growth areas fences, walls, and vegetative hedges up to a maximum of six feet in height may be located within the front yard setback area subject to the limitations of WCC 20.80.210(3) (Vision Clearance).

(2) Rear Yards. Uncovered patios, driveways, walkways, vegetation, pools, HVAC equipment placed adjacent to the primary structure and extending no more than 3 feet into the rear yard, recreation equipment, open parking spaces, fences and walls up to seven feet in height, and structures housing accessory uses in Urban Residential, Residential Rural, Rural and Agricultural Zone Districts may be placed in the rear yard; provided, that an open space of at least eight feet is maintained between any structure housing such accessory use and any other building on that lot.
(3) Side yards must be kept open; provided, that uncovered patios and decks less than 30 inches in height; driveways, walkways, and parking areas; pools and other recreational equipment; HVAC equipment placed adjacent to the primary structure and extending no more than 3 feet into the side yard; and fences, walls, and vegetative hedges up to seven feet in height may be placed in the side yard.

6) (POLICY CHANGE) Revise minimum lot width and depth in URM zone.

In the URM District, Table 20.22.254 (minimum lot width and depth) only accounts for lots participating in the Transfer of Development Rights (TDR) program (which is rarely, if ever, used); it doesn't account for lots not using TDR, of which there are many.

Thus, staff proposes to delete "and TDRs" from the table. Regardless of whether there are TDR credits, if the development does not have public water and sewer, then the listed lot width and depth dimensions are adequate; if the proposal has public water and public sewer, the lots can be narrower/smaller. However, they should not be 0' or N/A as listed; otherwise we could get unworkable lots. Thus, staff is proposing to use the lot width standards of the UR zone when developed at 6 units per acre, the most likely density to be applied in the URM zone when sewer and water are available.

TITLE 20 ZONING

Chapter 20.22 Urban Residential – Medium Density (URM) District

20.22.254 Minimum lot width and depth.

District	Width at Street Line*		Width at Bldg. Line	Minimum Mean Depth
	Conventional	Cluster		
URM: all districts without public sewer and water ~~and transferable development rights (TDRs)~~	300'	70'	80'	100'

District	Width at Street Line*		Width at Bldg. Line	Minimum Mean Depth
	Conventional	Cluster		
URM: with public sewer and water ~~and transferable development rights (TDRs)~~	~~N/A~~25'	~~N/A~~25'	~~N/A~~40'	~~N/A~~50'

* The "Width at Street Line" standards do not apply to lots being modified through boundary line adjustment (BLA), subject to WCC 21.03.060(2)(f).

7) (POLICY CHANGE) Reduce parking stall size to 9' x 18'.

Our current parking stall size in 10' x 20'. However, the most common size requirement in most codes these days is 9' x 18' (e.g., Bellingham) or smaller (e.g., Skagit County's is 8-1/2 x 17; Snohomish County's is 8' x 16'). Staff proposes to reduce our standard parking stall size to 9' x 18', so as to reduce impervious surfaces. This size would accommodate most modern vehicles, though applicants anticipating most of there clients to be driving larger vehicles (e.g., large personal trucks) could still provide larger spaces. This change in stall size would also require that we amend the Off-Street Parking Diagram, as shown below. For some reason this table and diagram currently follow §20.80.515, but we'll insert them to appropriately follow §20.80.510.

If Council supports this size reduction, the minor variance allowance to reduce parking stalls to this size would no longer be needed, so staff would also recommend replacing 22.05.024(2)(a)(ii) with a reference to the minor variance allowance for critical area buffer reduction (of 25-50%) that Council approved in the recent Shoreline Management Program Periodic Update.

TITLE 20 ZONING

Chapter 20.51 Lake Whatcom Watershed Overlay District

20.51.360 Parking space dimensions.

A standard parking space shall have the rectangular dimensions of 9~~10~~ feet in width and 18~~20~~ feet in length; provided, that for any parking area of six or more spaces, 50% ~~percent~~ of all spaces may have the rectangular dimensions of ~~eight~~ 8 feet in width and 15 feet in length; and further provided, that these spaces are marked for use by compact automobiles. Except in single-family residential areas, all dimensions shall be exclusive of driveways, aisles, and other circulation areas required under WCC 20.80.5~~60~~0 *et seq* ~~and 20.80.570~~.

Chapter 20.71 Water Resource Protection Overlay District

20.71.601 Parking space dimensions.

A standard parking space shall have the rectangular dimensions of 9~~10~~ feet in width and 18~~20~~ feet in length; provided, that for any parking area of six or more spaces, 50% ~~percent~~ of all spaces may have the rectangular dimensions of ~~eight~~ 8 feet in width and 15 feet in length; and further provided, that these spaces are marked for use by compact automobiles. Except in single-family residential areas, all dimensions shall be exclusive of driveways, aisles, and other circulation areas required under WCC 20.80.5~~60~~0 *et seq* ~~and 20.80.570~~.

Chapter 20.80 Supplementary Requirements

20.80.500 Off-street parking and loading requirements.
(…)

20.80.510 Parking space dimensions.

(1) A parking space shall have minimum rectangular dimensions of not less than ~~10~~ 9 feet in width and ~~20~~ 18 feet in length; provided, however, that for any parking area of 12 or more spaces, 35% ~~percent~~ of all spaces may have minimum rectangular dimensions of not less than ~~eight~~ 8 feet in width and 15 feet in length; provided, that these spaces are marked for use by compact automobiles. All dimensions shall be exclusive of driveways, aisles, and other circulation areas. The number of required off-street parking spaces is established in WCC 20.80.580.

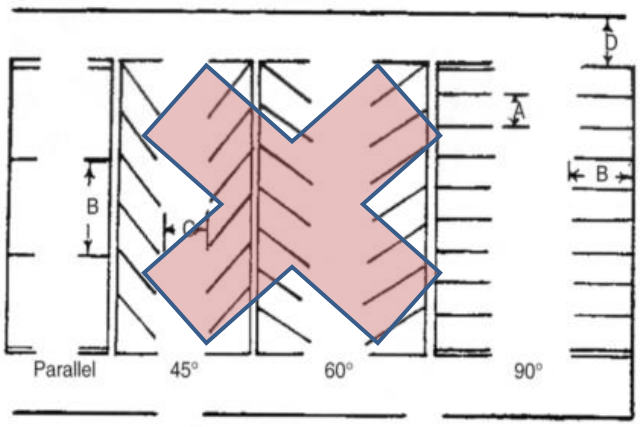
(2) The following Off-Street Parking Diagram indicates the dimensions necessary to achieve the dimensions of subsection (1) at various angles. Note that:
   (a) If a parking lot section is designated for compact vehicles the stall may be 8 feet x 15 feet for a 90˚ parking angle.
   (b) Stalls should be larger for commercial vehicle parking.
   (c) Applicant may provide larger spaces to accommodate their customers/tenants that have larger personal vehicles.
   (d) Bumper overhang should be considered in placing lighting, railings, etc. These appurtenances should be placed beyond dimension "I" in the diagram.
   (e) Only 2-way traffic should be used with 90˚ parking angles.

Off-Street Parking Diagram

Dimension	Diagram Location	Parking Angle			
		45˚	60˚	75˚	90˚
Stall width, parallel to aisle	A	12.5	10.5	9.2	9.0
Stall length of line	B	27.6	23.6	21.0	18.0
Stall depth to wall	C	19.4	20.3	20.0	18.0
Aisle width between stall lines	D	12.1	12.8	23.0	20.0
Stall depth, interior	E	16.4	18.0	19.0	18.0
Module, wall to interior	F	47.9	55.1	62.0	63.0
Module, interior	G	44.9	53.1	61.0	63.0
Module, interior to curb face	H	45.9	52.5	59.4	60.0
Module, interior to curb face	I	2.0	2.3	2.5	2.5
Offset	J	6.6	2.5	0.7	0
Setback	K	13.1	9.2	4.9	0
Cross aisle, one-way	L	14.1	14.1	14.1	14.1
Cross aisle, two-way	---	20.0	20.0	20.0	202.0

20.80.515 Loading space requirements and dimensions.
(…)

~~Off-Street Parking Diagram~~



~~Off-Street Parking Dimensional Table~~

-	~~45 Degrees~~	~~60 Degrees~~	~~90 Degrees~~	~~Parallel~~
~~A = width of parking space~~	~~10'~~	~~10'~~	~~10'~~	~~10'~~
~~B = length of parking space~~	~~20'~~	~~20'~~	~~20'~~	~~25'~~
~~C = width of driveway isle~~	~~13'~~	~~18'~~	~~25'~~	~~12'~~
~~D = width of access driveway~~	~~14'~~	~~14'~~	~~14'~~	~~14'~~

~~Off Street Parking Dimensional Table~~

	~~45 Degrees~~	~~60 Degrees~~	~~90 Degrees~~	~~Parallel~~
~~D = width of 2-way access driveway~~	~~24'~~	~~24'~~	~~24'~~	~~24'~~

~~**20.80.560 Width of aisles.**~~

~~One-way aisles serving individual parking spaces shall be not less than 25 feet wide for 90-degree parking, 12 feet wide for parallel parking, 18 feet for 60-degree parking, and 13 feet for 45-degree parking.~~

20.80.570 Circulation.

The entrances and exits to the parking area shall be clearly marked. Interior vehicular circulation by way of access roads shall maintain the following minimum standards: For one-way traffic, the minimum width of 14.1 feet. Access roads for two-way traffic shall have a minimum width of 20~~4~~ feet. Parking areas having more than one aisle or driveway shall have directional signs or markings in each aisle or driveway.

20.80.590 General interpretations.

In the interpretation of ~~this~~ section 20.80.500, et seq., the following rules shall govern:

(1) Parking spaces for other permitted or conditional uses not listed in this section shall be determined by the Director or Hearing Examiner, whichever has jurisdiction for the permit applied for ~~where a land use permit is required and by the zoning administrator for other permitted uses~~.

(2) Fractional numbers shall be increased to the next whole number.

(3) Where there is an adequate public transit system or where for any other reason parking requirements are unusually low, the parking space provisions cited above may be reduced proportionately ~~by the zoning administrator~~ decision maker with jurisdiction.

~~(4) In portions of a lot devoted exclusively to the smaller spaces marked for use by small cars, aisle width may be reduced to 20 feet for 90 degree parking; to 15 feet for 60 degree parking; and to 12 feet for 45 degree parking.~~

Title 22 LAND USE AND DEVELOPMENT

Chapter 22.05 Project Permit Procedures

22.05.024 Variances.

(…)

(2) There are two types of variances: Minor and Major Variances.

(a) Minor variances include those that are unlikely to have impacts on surrounding properties or people or need to be processed more rapidly to meet federal time frames. These shall be limited to variances for:

(i) A reduction of up to 10% ~~percent~~ of a front yard setback;

(ii) ~~A reduction in parking stall dimensions down to nine feet by 18 feet~~Minor variances for reduction of critical area buffers pursuant to WCC 16.16.273.

Commented [CES1]: Council has already approved this section in the CAO; we're just listing it here.

(iii) The following personal wireless service facilities: Small wireless facilities, provided that a variance shall not be granted that would alter the dimensional, bulk, numerical, or other criteria in the definition of small wireless facility in WCC 20.13.

(b) Major variances include all other variances.

(…)

8) Fix conflicting permitting requirement for clearing in the Rural Forestry district.

In early 2022, through the 2021 Miscellaneous Code Amendments, Council changed the permitting requirement for "alteration or removal of more than 20% of the lot area" from a Conditional Use Permit (CUP) to a Variance in:

20.42.455 Forestland retention.

No more than 20% of a lot's area shall be permanently altered or removed from the production of forest products, unless authorized by a variance (WCC 22.05.024) or as a planned unit development (Chapter 20.85 WCC), in which case no more than 35% of the lot's area shall be permanently altered or removed from the production of forest products.

Unfortunately, staff didn't realize that the same requirement for a CUP was doubly listed in §20.42.163. Staff would like to rectify these conflicting requirements by deleting §20.42.163.

TITLE 20 ZONING

Chapter 20.42 Rural Forestry (RF) District

20.42.150 Conditional uses.

The conditional uses listed herein shall be administered pursuant to the applicable provisions of Chapters 16.08 WCC (SEPA), 20.80 WCC (Supplementary Requirements) and 22.05 WCC (Project Permit Procedures), and WCC Titles 21 (Land Division Regulations) and 23 (Shoreline Management Program).

(…)

~~**.163** The permanent alteration or removal of more than 20 percent of the lot area, excluding natural meadows, bogs, surface waters, and rock outcrops, from the production of forest products when not otherwise authorized by WCC 20.42.450.~~

9) (POLICY CHANGE) Add Bicycle Parking Requirements

The Council's Bicycle/Pedestrian Advisory Committee (BPAC) requests that the Council adopt bicycle parking facility requirements so as to encourage and accommodate increased bicycle usage, thus reducing carbon footprints. The BPAC endorsed the below language in December 2021.

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.580 Parking space requirements.

For the purpose of this ordinance, the following parking space requirements shall apply (See also WCC 20.97.140), though may be reduced pursuant to WCC 20.80.527(2)(c):

…

20.80.527 Bicycle Parking Facilities.

(1) Bicycle parking facilities shall be provided in all developments within an Urban Growth Area (UGA) or Limited Area of More Intensive Rural Development (LAMIRD) requiring 10 or more parking stalls pursuant to and as identified in WCC 20.80.505 (General Requirements), except for single-family and two-family residential dwellings and agricultural uses or where these requirements are waived per subsection (5).

(2) Each such development shall provide a number of bicycle parking spaces in accordance with the following:

(a) Short-Term Bicycle Parking. If a land use or development project is anticipated to generate visitor traffic, the project must provide permanently anchored bicycle racks within 100 feet of the visitor's entrance. To enhance security and visibility, the bicycle racks shall be readily visible to passersby. The bicycle capacity of the racks must equal an amount equivalent to 5% of all required off-street vehicle parking, as identified in WCC 20.80.580 (Parking Space Requirements) and WCC 20.80.590 (General Interpretations). There shall be a minimum of one rack with capacity for two bicycles.

(b) Long-Term Bicycle Parking. Such developments ~~Buildings with over 10 tenant occupants (e.g., multifamily tenants and/or business owners and employees)~~ shall provide secure bicycle parking for 5% of all required off-street vehicle parking spaces, as identified in WCC 20.80.580 (Parking Space Requirements) and WCC 20.80.590 (General Interpretations). There shall be a minimum of one long-term bicycle parking space. Acceptable parking facilities shall be convenient from the street and include one or a combination of the following:

(i) Covered, lockable enclosures with permanently anchored racks for bicycles.

(ii) Lockable bicycle rooms with permanently anchored racks.

(iii) Lockable, permanently anchored bicycle lockers.

(iv) In the case of multi-family residential development, a standard garage is sufficient, if available.

(c) Reduction of Vehicular Parking Spaces. The number of vehicular parking spaces required by WCC 20.80.580 may be reduced by the number of bicycle parking spaces required by subsections (a)

and/or (b), though may not be reduced by more than that required even if the applicant provides additional bicycle parking spaces.

(3) Bicycle racks. Required bicycle parking may be provided in floor, wall, or ceiling racks. Where required bicycle parking is provided with racks, the racks must meet the following requirements:

(a) The bicycle frame and one wheel can be locked to the rack with a high-security U-shaped shackle lock if both wheels are left on the bicycle.

(b) A bicycle of 6 feet in length can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components.

(4) Parking and maneuvering areas.

(a) Bicycle parking facilities shall be installed in such a way as to not impede pedestrian or vehicular movement.

(b) Each required bicycle parking space must be accessible without moving another bicycle. There must be an aisle at least 5 feet wide adjacent to all required bicycle parking to allow room for bicycle maneuvering. Where the bicycle parking is adjacent to a sidewalk, the maneuvering area may extend into the right-of-way. The area devoted to bicycle parking must be hard surfaced.

(c) If required bicycle parking is not visible from the street or main building entrance, a durable sign must be posted at the main building entrance indicating the location of the bicycle parking.

(5) The Director may waive the requirements of this section for individual applications if it can be shown that the use would not attract nor serve cyclists, whether customers or employees.

(6) Developments not required to provide bicycle parking per subsection (2), but voluntarily choose to do so, may avail themselves to the reduced vehicular parking standards allowed by subsection (3) so long as they meet all the requirements of this section. However, in no instance shall vehicular parking be reduced by more than 25%.

Chapter 20.97 Definitions

20.97.140 Floor area of a nonresidential building.

"Floor area of a nonresidential building" (to be used in calculating parking requirements) means the floor areas of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, long-term bicycle parking areas, and similar areas.

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10) Standardize and Simplify Accessory Dwelling Unit Language & Regulations

Accessory dwelling units (ADU) are allowed in 12 of our zones, and each zone chapter contains standards for under what circumstances they're allowed, as well as design and other standards. There are 13 standards in most zones (though one or two fewer in a few zones), each reading almost identically. Staff proposes to move, combine, standardize, and correct the grammar of all these separate sections into one section in Chapter 20.80. Staff is not proposing to change the standards, only make them easier to find and understand.

TITLE 20 ZONING

Chapter 20.97 Definitions

~~**20.97.003 Accessory apartment.**~~

~~"Accessory apartment" means a separate complete residential unit designed for occupancy by a family. It is substantially contained within the contiguous structure or attached garage of a single-family residence and there is internal access between the units; provided, however, that a detached garage whose foundation is 10 feet or less from the single-family residence is permitted as an accessory apartment. For structures further than 10 feet apart, a covered or enclosed breezeway does not constitute an approved access.~~

~~**20.97.097 Detached accessory dwelling unit.**~~

~~"Detached accessory dwelling unit" means a separate and complete dwelling unit not attached in any way to the main or existing dwelling unit; designed for occupancy by a family.~~

20.97.003 Accessory Dwelling Unit.

An accessory dwelling unit (ADU) is a smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home. ADUs go by many different names, including accessory apartments, secondary suites, and granny flats. ADUs can be converted portions of existing homes (i.e., internal ADUs), additions to new or existing homes with at least one shared wall (i.e., attached ADUs), or new stand-alone (i.e., no shared walls) accessory structures or converted portions of existing stand-alone accessory structures (i.e., detached ADUs).

Chapter 20.80 Supplementary Requirements

20.80.910 Accessory Dwelling Units – Standards.

Where allowed in the zoning district, all accessory dwelling units shall comply with the following standards and restrictions:

(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory dwelling unit per lot;

(2) The owner(s) of the lot upon which the accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;

(3) Minimum Lot Size. In the districts where accessory dwelling units are allowed:

(a) For attached accessory dwelling units there is no minimum lot size, except in the Lake Whatcom Watershed Overlay district as provided in subsection (c) and the Rural Residential-Island district as provided in subsection (d).

(b) For detached accessory dwelling units the minimum lot size shall be 4.5 acres unless the parcel is large enough to accommodate two dwelling units consistent with the gross density of the underlying zoning district; except:

(i) In the urban zones (UR, URM, and UR-MX) there is no minimum lot size.

(ii) In the Agriculture district the minimum lot size for a detached accessory dwelling unit is 40 acres;

(iii) In the Rural Forestry district the minimum lot size for a detached accessory dwelling unit is 20 acres.
(iv) In the Lake Whatcom Watershed Overlay district as provided in subsection (c).
(v) In the Rural Residential-Island district as provided in subsection (d).

(c) In the Lake Whatcom Watershed Overlay district the minimum lot size for any accessory dwelling unit is 10 acres, unless the underlying zoning district is Rural Forestry, in which case the minimum lot size is 40 acres.

(d) In the Rural Residential-Island district the minimum lot size for attached accessory dwelling units is 4.5 acres, and for detached accessory dwelling units the minimum lot size is 10 acres.

Table 20.80.910(3) Minimum Lot Size Required for an ADU

District	Attached ADUs	Detached ADUs
UR	N/A	N/A
URM	N/A	N/A
UR-MX	N/A	N/A
RR	N/A	4.5 ac
RR-I	4.5 ac	10 ac
R	N/A	4.5 ac
TZ	N/A	4.5 ac
AG	N/A	40 ac
RF	N/A	20 ac
STC	N/A	4.5 ac
RC	N/A	4.5 ac
LWWO	10 ac; 40 ac if underlying district is RF	

(4) Because when a subdivision is platted, roads and certain utilities (water, septic, sewer) are sized for the proposed number of lots and do not account for accessory dwelling units:
(a) Accessory dwelling units are allowed (where permitted) in all subdivisions (both long and short plats) that received preliminary plat approval prior to January 25, 1994;
(b) Accessory dwelling units shall be prohibited in all subdivisions (both long and short plats) that received preliminary plat approval after January 25, 1994, except on those specific lots that are designating on the face of the final plat as allowing accessory dwelling units.
(c) In no case shall an accessory dwelling unit be permitted in a reserve tract within plats created through the cluster subdivision method.

(5) Design and Construction.
(a) Accessory dwelling units shall be clearly subordinate to the primary residence;
(b) The maximum size of an accessory dwelling unit shall not exceed 1,248 square feet in floor area; except, when the Density Credit Program (WCC Chapter 20.91) is used, the size may be increased to a maximum of 1,748 square feet;
(c) Only one access point off of a public road shall be allowed to serve both the primary residential unit and any accessory dwelling unit;
(d) Accessory dwelling units shall be located so as to minimize visual impacts to adjacent properties and public rights-of-way, with location in immediate proximity to the primary

residence being preferred. Location closer to property lines than to the primary residence may be considered when such location serves the goal of reducing overall visual impacts to public rights-of-way and adjacent properties, and such location still meets the setback requirements of WCC Chapter 20.80.

(i) There shall be only one front entrance visible from the front yard and street for houses with attached accessory dwelling units and only one additional entrance visible from the front yard for detached accessory dwelling units;

(ii) To minimize visual impacts fencing and/or landscaping to screen the unit from public rights-of-way and/or adjacent properties may be required;

(e) In the Agriculture district detached accessory dwelling units shall be located within the farmstead cluster and comply with siting criteria found in WCC 20.80.255.

(6) Prior to building permit issuance, the owner shall record with the Whatcom County Auditor a deed restriction stating:

(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning district allows such a land division; and,

(b) The owner(s) of the lot upon which the accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot.

Chapter 20.20 Urban Residential (UR) District

20.20.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028.

…

.132 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following approval requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~

~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~

~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~

~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~

~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~

~~(6) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory~~

~~dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~

~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~

~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~

~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

~~(7) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~

~~(8) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~

~~(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~

~~(b) One of the dwellings must be the primary domicile of the owner;~~

~~(9) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:~~

~~(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and~~

~~(b) All of the above approval requirements shall be met for so long as the accessory unit remains;~~

~~(10)Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~

~~(11)All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).~~

…

Chapter 20.22 Urban Residential – Medium Density (URM) District

20.22.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028:

…

.132 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910.~~to single-family dwellings; provided, that all of the following approval requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~

~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~

~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~

~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~

~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~

~~(6) The maximum size of an accessory apartment or detached dwelling unit shall not exceed 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;~~

~~(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~

~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~

~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~

~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

~~(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~

~~(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~

~~(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~

~~(b) One of the dwellings must be the primary domicile of the owner;~~

~~(10)Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~

~~(11)All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).~~

…

Chapter 20.24 Urban Residential Mixed (UR-MX) District

20.24.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028:

…

.133 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following approval requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~

~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~

~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~

~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~

~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~

~~(6) The maximum size of an accessory apartment or detached dwelling unit shall not exceed 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;~~

~~(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~

~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~

~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~

~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

~~(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~

~~(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~

~~(a) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~

~~(b) One of the dwellings must be the primary domicile of the owner;~~

~~(10)Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:~~

~~(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and~~

~~(b) All of the above approval requirements shall be met for so long as the accessory unit remains;~~

~~(11) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~

~~(12) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).~~

…

Chapter 20.32 Residential Rural (RR) District

20.32.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028.

…

.132 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following approval requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~

~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~

~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~

~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~

~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~

~~(6) The maximum size of an accessory apartment or detached dwelling unit shall not exceed 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;~~

~~(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~

~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~

~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~

~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

~~(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~

~~(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~

~~(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~

~~(b) One of the dwellings must be the primary domicile of the owner;~~

~~(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;~~

~~(11) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:~~

~~(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and~~

~~(b) All of the above approval requirements shall be met for so long as the accessory unit remains;~~

~~(12) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~

~~(13) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).~~

…

Chapter 20.34 Rural Residential-Island (RR-I) District

20.34.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028:

…

.132 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~

~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~

~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~

~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~

~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~

~~(6) The maximum size of an accessory apartment or detached dwelling unit shall not exceed 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;~~

~~(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~

~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~

~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~

~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

~~(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~

~~(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~

~~(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~

~~(b) One of the dwellings must be the primary domicile of the owner;~~

~~(10)The minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;~~

~~(11)Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed on Lummi Island, only under the following circumstances:~~

~~(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and~~

~~(b) All of the above approval requirements shall be met for so long as the accessory unit remains;~~

~~(12)Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the~~

~~applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~

~~(13)All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).~~

…

Chapter 20.36 Rural (R) District

20.36.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028.

…

.132 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~

~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~

~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~

~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~

~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~

~~(6) The maximum size of an accessory apartment or detached dwelling unit shall not exceed 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;~~

~~(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~

~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~

~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~

~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

~~(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~

~~(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~

~~(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~

~~(b) One of the dwellings must be the primary domicile of the owner;~~

~~(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;~~

~~(11) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:~~

~~(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and~~

~~(b) All of the above approval requirements shall be met for so long as the accessory unit remains;~~

~~(12) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~

~~(13) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).~~

…

Chapter 20.37 Point Roberts Transitional Zone (TZ) District

20.37.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028:

…

.132 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~

~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~

~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~

~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~

~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~
~~(6) The maximum size of an accessory apartment or detached dwelling unit shall not exceed 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;~~
~~(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~
~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~
~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~
~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~
~~(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~
~~(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~
~~(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~
~~(b) One of the dwellings must be the primary domicile of the owner;~~
~~(10)The minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;~~
~~(11)Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~
~~(12)All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).~~

…

Chapter 20.40 Agriculture (AG) District

20.40.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028:

…

.133 A~~n a~~ccessory ~~apartment or a detached accessory~~ dwelling unit<u>s, when consistent with WCC 20.80.910.</u> ~~to a single-family dwelling; provided, that all of the following requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~
~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~
~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~
~~(4) Accessory apartments and detached accessory units shall be located within the farmstead cluster and comply with siting criteria found in WCC 20.80.255;~~
~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~
~~(6) In no case shall an accessory apartment or detached dwelling unit be larger than 1,248 square feet in floor area;~~
~~(7) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~
~~(8) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~
~~(a) Detached accessory dwelling units and associated land cannot be financed or sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~
~~(b) One of the dwellings must be the primary domicile of the owner;~~
~~(9) The minimum lot size for detached accessory units shall be on a lot of record no less than 40 acres;~~
~~(10) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~
~~(11) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC);~~
~~(12) A right to farm ordinance disclosure statement shall be signed and recorded with the Whatcom County auditor by the current and subsequent occupants of the primary and accessory dwelling unit or apartment.~~

…

Chapter 20.42 Rural Forestry (RF) District

20.42.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028.

…

.132 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following approval requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~
~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~
~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~
~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~
~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~
~~(6) In no case shall an accessory apartment or detached dwelling unit be larger than 1,248 square feet in floor area;~~
~~(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~
~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~
~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~
~~(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~
~~(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~
~~(a) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~
~~(b) One of the dwellings must be the primary domicile of the owner;~~
~~(10)Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 20 acres;~~
~~(11)Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed only under the following circumstances:~~
~~(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and~~
~~(b) All of the above approval requirements shall be met for so long as the accessory unit remains;~~
~~(12)Detached accessory units shall be located closer to the primary unit than to any adjoining property line unless site constraints require location closer to the property line. If an accessory unit is located closer to an adjacent property line than to the primary dwelling or within 50 feet of an adjoining property, the applicant must provide a statement of non-objection from the adjacent property owner and must screen the unit to minimize visual impacts;~~
~~(13)All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with the Washington Administrative Code (WAC).~~

Chapter 20.61 Small Town Commercial (STC) District

20.61.150 Administrative approval uses.

In a rural community designation, uses listed in this section may be administratively permitted pursuant to WCC 22.05.028 if a use of the same type existed in that same rural community designation on July 1, 1990, per WCC 20.80.100(1). In a rural business designation, all uses listed in this section may be administratively permitted.

The zoning administrator may administratively permit other uses similar in nature to the permitted uses listed in WCC 20.61.050 or this section that the zoning administrator determines to be consistent with the purpose and intent of the district, have similar effects on surrounding land uses, and can meet the performance standards for this district.

…

.153 Residential type uses.

(1) Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following requirements are met:~~

~~(a) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~

~~(b) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~

~~(c) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~

~~(d) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~

~~(e) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~

~~(f) The maximum size of an accessory apartment or detached dwelling unit shall not exceed 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;~~

~~(g) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~

~~(i) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~

~~(ii) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~

~~(iii) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

~~(h) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~

~~(i) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~
~~(i) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~
~~(ii) One of the dwellings must be the primary domicile of the owner.~~

Chapter 20.64 Resort Commercial (RC) District

20.64.130 Administrative approval uses.

In a rural community designation, uses listed in this section may be administratively permitted pursuant to WCC 22.05.028 if a use of the same type existed in that same rural community designation on July 1, 1990, per WCC 20.80.100(1). In a rural business designation, all uses listed in this section may be administratively permitted.

The zoning administrator may administratively permit other uses similar in nature to the permitted uses listed in WCC 20.64.050 or this section that the zoning administrator determines to be consistent with the purpose and intent of the district, have similar effects on surrounding land uses, and can meet the performance standards for this district.

.132 Accessory ~~apartments or detached accessory~~ dwelling units, when consistent with WCC 20.80.910. ~~to single-family dwellings; provided, that all of the following requirements are met:~~

~~(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;~~
~~(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;~~
~~(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;~~
~~(4) There shall be only one front entrance to the house visible from the front yard and street for houses with accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;~~
~~(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;~~
~~(6) The maximum size of an accessory apartment or detached dwelling unit shall not exceed 1,248 square feet in floor area, except when the density credit program is utilized the size may be increased to a maximum of 1,748 square feet;~~
~~(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:~~
~~(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;~~
~~(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;~~
~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

~~(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;~~
~~(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:~~
~~(a) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling, except in the event the zoning permits such a land division; and~~
~~(b) One of the dwellings must be the primary domicile of the owner;~~
~~(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be on a lot of record no less than 4.5 acres, unless the parcel is large enough to accommodate two dwelling units consistent with the underlying zoning density;~~
~~(11) Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in Chapter 20.80 WCC. To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to screen the unit from public right-of-way and adjacent properties;~~
~~(12) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).~~

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11) Add Language Authorizing Securities

The use of financial sureties (assignment of funds, bonds, letters of credit, etc.) is a common mechanism used by the County (and other jurisdictions) to ensure that conditions are complied with and promised work is performed. And while there are numerous sections of code that require such sureties, there isn't an underlying regulation that authorizes their use. Therefore, staff proposes to add the below to Title 22 (Land Use and Development) and references to it throughout the code where securities are mentioned.

TITLE 22 LAND USE AND DEVELOPMENT

Chapter 22.05 Project Permit Procedures

22.05.134 Security Mechanisms.

(1) This section is applicable to securities required by Planning and Development Services and the codes over which it has jurisdiction; those required by Public Works are governed by the Whatcom County Development Standards.

(2) In approving any permit application, the decision maker may require the posting of financial securities, in a form acceptable to the County's attorney, to ensure compliance with any code requirements or conditions imposed, including but not limited to the construction of improvements, environmental mitigation or improvements, installation of landscaping, the adherence to County standards, and/or maintenance, repair, or replacement of such improvements.

(3) The County may accept any of the following: bonds, letters of credit from an insured bank, a secured account with an insured bank, or a cash deposit. Other forms of security may be accepted if approved by the County's attorney.

(4) **Performance Securities.**

(a) Except as provided in Subsection (c):

(i) A performance security shall be provided to guarantee that a site can be closed and/or winterized if necessary, or that measures can be taken by the County to respond to weather-related emergencies.

(ii) In lieu of installing improvements or a condition of a permit, an applicant may propose to post a security to ensure completion of any improvements for which construction plans have been approved. Said improvements shall be installed within one year of final project permit approval. An extension not to exceed one year may be approved upon extension of the security or submission of a new one.

(iii) A performance security may be required to cover the cost of installing any systemwide improvements that an applicant has agreed to install as part of his project where the lack of installation would cause the system to fail or not be completed in a timely manner.

(iv) Performance securities are also required for certain improvements that the County may want removed after a certain time or after the improvement is no longer used (e.g., telecommunications towers, wind turbines, etc.

(b) Performance securities may be presented to the County after preliminary approval of a project but in all circumstances shall be presented prior to any site work, including clearing, grading, or construction.

(c) Submission of a performance security may be waived by the Director if, in his opinion, said guarantee of installation is not necessary.

(5) **Maintenance Sureties.** An applicant shall provide to the County a maintenance security to cover the cost of replacing or repairing any of the improvements installed per the Whatcom County Code or a condition of a permit.

(6) **Amount of the Security.**

(a) The amount of a security shall be a percentage, as specified below, of the estimated cost of design, materials, and labor, based on the estimated costs on the last day covered by the device, of installing, replacing, or repairing (whichever is appropriate) the improvements covered by the security.

(i) Performance—125% of the costs specified in Subsection (a).

(ii) Maintenance—20% of the costs specified in Subsection (a).

(b) The Director shall approve the amount of a security under Subsection (a) of this section. The applicant shall prepare for his review and approval a certified cost estimate of the items to be covered by the security.

(7) **Reduction of Securities.** In those cases where securities have been made, and only with the Director's approval, the amount of the security may be reduced upon acceptance of a portion of the required improvements. The amount of the reduction shall not exceed the percentage that the

accepted improvements made up of all originally required improvements. In no case, however, shall the security be reduced to less than 25% of the original amount.

(8) **Duration of securities.** All securities shall be held until released by the Director; however, the standard duration of the various securities should be as follows:

(a) Performance—One year or until all improvements are installed and accepted by the County, whichever is greater.

(b) Maintenance—Two years; extendable by the County if repairs are made at the end of the security period which, in the opinion of the Director, require additional guarantee of workmanship.

(9) **Security agreement.** In each case where a security is posted, the applicant and the Director shall sign a notarized security agreement, approved in form by the County attorney. This agreement shall be recorded with the Whatcom County Auditor. The agreement shall provide the following information:

(a) A description of the work or improvements covered by the security.

(b) Either the period of time covered by the maintenance security or the date after which the County will use the proceeds of the performance security to complete the required work or improvements.

(c) The amount and nature of the security and the amount of the cash deposit.

(d) The rights and duties of the County and the applicant.

(e) An irrevocable license to run with the property to allow the employees, agents, or contractors of the County to go on the subject property for the purpose of inspecting and, if necessary, doing the work or making the improvements covered by the security.

(f) The mechanism by and circumstances under which the security shall be released. At a minimum, after the work or improvements covered by a performance security have been completed, or at the end of the time covered by a maintenance security, the applicant may request the County to release the security. If the applicant has complied with the security agreement and this code, the Director shall release the security remaining. If the work has not been completed or repairs not made, then the County shall not release the security until such work is completed per subsection (12) (Use of Security Funds by the County). Partial release of the security may be allowed provided that the developer provides a new security in the amount specified in subsection (7) (Amount of the Security) for the remaining work.

(g) Upon release of any recorded security mechanism a copy of the letter of release shall be filed with the Whatcom County Auditor.

(10) **Supplemental Administrative Costs.** In addition to the security, the applicant shall pay a fee to the County covering the County's actual expenses of administering, and if necessary, using the proceeds of the security. The amount of this fee will be set by the County Council in the Unified Fee Schedule.

Commented [CES2]: Will need to add to UFS.

(11) **Use of Security Funds by the County.**

(a) If during the period of time covered by a maintenance security, or after the date by which the required work or improvements are to be completed under a performance security, the Director determines that the security agreement has not been complied with, he shall notify the applicant of this. The notice must state:

(i) The work that must be done or the improvements that must be made to comply with the security agreement; and,
(ii) The amount of time, not to exceed thirty days, that the applicant has to commence and complete the required work or improvements; and,
(iii) That, if the work or improvements are not commenced and completed within the time specified, the County will use the proceeds of the security to have the required work or improvements completed.

(b) If the work or improvements covered by the security are not completed within the time specified in the notice the County shall obtain the proceeds of the security and shall cause such work to be completed.

(c) The applicant is responsible for all costs incurred by the County in administering, maintaining, or making the improvements covered by the security(s). The County shall release or refund any proceeds of a performance or maintenance security remaining after subtracting all costs for doing the work or making the improvements covered by the security. The applicant shall reimburse the County for any amount expended by the County that exceeds the proceeds of the security. The County may file a lien against the subject property for the amount of any excess.

(d) In each case where the County uses any of the funds of a security, it shall give the applicant an itemized statement of all funds used.

22.05.110 Final decisions – Type I, II, and III applications.

(1) The director ~~or designee~~'s final decision on all Type I or II applications shall be in the form of a written determination or permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to comply with all applicable codes.

(2) The hearing examiner's final decision on all Type III applications per WCC 22.05.020 or appeals per WCC 22.05.160(1) shall either grant or deny the application or appeal.

(a) The hearing examiner may grant Type III applications subject to conditions, modifications or restrictions that the hearing examiner finds are necessary to make the application compatible with its environment, carry out the objectives and goals of the comprehensive plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.

(b) Requirements.

(i) Performance bonds or other security~~, acceptable to the prosecuting attorney,~~ may be required to ensure compliance with the conditions, modifications and restrictions consistent with WCC 22.05.134 (Security Mechanisms).

(ii) Fossil or renewable fuel refinery or fossil or renewable fuel transshipment facilities: The applicant shall provide insurance or other financial assurance acceptable to the prosecuting attorney consistent with WCC 22.05.125.

(c) The hearing examiner shall render a final decision within 14 calendar days following the conclusion of all testimony and hearings. Each final decision of the hearing examiner shall be in writing and shall include findings and conclusions based on the record to support the decision.

(d) No final decision of the hearing examiner shall be subject to administrative or quasi-judicial review, except as provided herein.

(e) The applicant, any person with standing, or any county department may appeal any final decision of the hearing examiner to superior court, except as otherwise specified in WCC 22.05.020.

22.05.120 Recommendations and final decisions – Type IV applications.

…

(5) The County Council's final written decision may include conditions when the project is approved and shall state the findings of fact upon which the decision is based.

(a) ~~Performance bonds or other s~~Securit~~iesy, acceptable to the prosecuting attorney,~~ may be required to ensure compliance with the conditions, modifications and restrictions consistent with WCC 22.05.134 (Security Mechanisms).

…

TITLE 20 ZONING

Chapter 20.13 Wireless Communication Facilities

20.13.090 Design and development standards.

(14)Screening Standards. Freestanding and attached wireless communication facilities shall be subject to the following standards for visual screening:

…

(f) When landscaping is required to be installed, a ~~maintenance bond, assignment of funds or other financial guaranty acceptable to the county~~ security shall be provided consistent with WCC 22.05.134 (Security Mechanisms)~~in the amount of 50 percent of the value of the labor and materials. The guaranty shall be in effect for two years from the date of planting.~~

…

20.13.130 General criteria for issuance of permits.

…

(4) Performance ~~Bond or Other Security Acceptable to the County~~Security. The operator of the facility shall obtain and keep in force throughout the time the facility is located on the site a performance ~~bond or other~~ security consistent with WCC 22.05.134 (Security Mechanisms)~~acceptable to Whatcom County payable to Whatcom County in the amount of 150 percent of the estimated cost of removal as determined by the director, but not less than $1,000~~. The ~~bond~~ security is intended to cover the costs of removal of such facility at such time as the facility may be required to be removed pursuant to WCC 20.13.150.

Chapter 20.14 Wind Energy Systems

20.14.100 Abandonment, insurance, and decommissioning for WES.

.104 ~~Financial~~ Security~~urety~~.

(1) As a condition of WES permit approval, the applicant shall be required to provide a form of security consistent with WCC 22.05.134 (Security Mechanisms)~~surety (i.e., post a bond, or establish an escrow account or other means) at the amount of 150 percent of the estimated full cost of project decommissioning less the approved, documented salvage value of any applicable project materials and equipment, naming Whatcom County as the beneficiary, with 50 percent due prior to final project approval, 25 percent due within 12 months of the date of final project approval, and 25 percent due within 24 months of the date of final project approval,~~ to cover

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costs of WES removal in the event the ~~c~~County must remove the facility. Nothing may prevent the ~~c~~County from seeking reimbursement from the WES project owner. The project owner is responsible to the ~~c~~County for any costs related to decommissioning that exceed the amount of financial surety.

(2) As part of the decommissioning plan, the applicant shall submit a fully inclusive estimate of the costs associated with removal, accounting for reasonable salvage value of any applicable project materials and equipment, prepared by a qualified professional. The decommissioning plan shall provide that the decommissioning funds shall be reevaluated every five years from the date of substantial completion of the WES to ensure sufficient funds for decommissioning and, upon mutual agreement by the applicant and the ~~c~~County at that time, the amount of decommissioning funds shall be adjusted accordingly.

(3) Prior to permit issuance, the applicant shall provide the ~~c~~County with a copy of the financial surety device or another approved mechanism.

Chapter 20.80 Supplementary Requirements

20.80.300 Landscaping.

20.80.375 Installation and bonding.

All landscaping and required irrigation shall be installed prior to occupancy. The ~~c~~County may accept ~~for a period of up to one year~~ a ~~performance bond or other monetary~~ security consistent with WCC 22.05.134 (Security Mechanisms)~~as approved by the prosecuting attorney in lieu of immediate installation for 125 percent of the labor and materials cost to install the approved landscaping and required irrigation. A landscaping maintenance bond or other approved monetary security for 10 percent of the labor and materials cost to install the approved landscaping shall be submitted prior to occupancy or release of any landscaping performance security held by the county. The maintenance security shall be released in two years after completion of the landscaping if the landscaping has been maintained in a healthy, growing condition, and if any dead or dying plants have been replaced.~~

Chapter 20.85 Planned Unit Development (PUD)

20.85.375 Enforcement.

After final review and approval, as provided by WCC 20.85.365 herein, the ~~zoning administrator~~Director shall enforce, or cause to be enforced, the provisions of this chapter as follows:

…

(3) Security. ~~In the event of noncompliance with the terms of this chapter, t~~The ~~zoning administrator~~ Director may require the applicant to furnish a security consistent with WCC 22.05.134 (Security Mechanisms)~~assurance of compliance upon such terms and conditions as the administrator deems appropriate including, but not limited to, the posting of a surety bond or other sufficient security~~;

…

TITLE 21 LAND DIVISION REGULATIONS

Chapter 21.04 Short Subdivisions

21.04.140 Security.

As an alternate to complete installation of required improvements, the ~~subdivider~~ applicant may ~~elect~~ propose to post securities consistent with WCC 22.05.134 (Security Mechanisms)~~, with the approval of the appropriate county authority, as set forth in the Whatcom County Development Standards guaranteeing completion of the work.~~ No occupancy permit, final inspection, or use of the lot(s) created by a short subdivision shall be issued or allowed until all necessary infrastructure improvements as specified by this title have been met.

Chapter 21.06 Final Long Subdivisions

21.06.040 Security.

As an alternate to complete installation of required improvements, the applicant may ~~elect~~ propose to post securities consistent with WCC 22.05.134 (Security Mechanisms)~~, with the approval of the appropriate county authority, as set forth in the Whatcom County Development Standards and WCC Title 20, guaranteeing completion of the work.~~ No occupancy permit, final inspection, or use of the lot(s) created by a subdivision shall be issued or allowed until all necessary infrastructure improvements as specified by this title have been met.

Chapter 21.08 General And Specific Binding Site Plans

21.08.030 Security.

As an alternate to complete installation of required improvements, the applicant may ~~elect~~ propose to post securities consistent with WCC 22.05.134 (Security Mechanisms)~~, with the approval of the appropriate county authority, as set forth in the Whatcom County Development Standards guaranteeing completion of the work.~~ No occupancy permit, final inspection, or use of the lot(s) created by a binding site plan shall be issued or allowed until all necessary infrastructure improvements as specified by this title have been met.

12) Clarify the obligations of property owners, occupants, and applicants for development activities

Most codes these days specify that it's the owners'/occupants'/applicants' obligation to (1) show how they meet the code when applying for permits; (2) provide accurate information; and (3) grant access to the subject property for inspection. Though it is implied, ours does not. PDS suggests the following section clarifying these obligations be added to Title 22.

TITLE 22 LAND USE AND DEVELOPMENT

Chapter 22.05 Project Permit Procedures

22.05.014 Obligations of Property Owner, Occupant, and Applicant.

(1) It is the intent of this Title to place the obligation of complying with the requirements of this Title, Title 15 (Buildings and Construction), Title 16 (Environment), Title 20 (Zoning), Title 21 (Land Divisions), Title 23 (Shoreline Management Program), and all other applicable laws and regulations upon the owner, and jointly and severally upon the occupant of the land and buildings within its scope.

(2) It is the responsibility of an applicant to provide accurate and complete information and plans to comply with the requirements of the cited Titles and all applicable laws and regulations. The County is not responsible for the accuracy of information or plans provided to the County for review or approval.

(3) The Department, or any other County department reviewing an application, may inspect any development activity to enforce the provisions of this title. By submitting an application to the County, the applicant consents to entry upon the site by the County during regular business hours for the purpose of making reasonable inspection to verify information provided by the applicant and to verify that work is being performed in accordance with the approved plans and permits and the requirements of this Title. Consent to entry extends from the date of application to the date of final action by the County.

13) Clarify that exceeding permit review timeframes does not construe either approval or denial of a permit.

Though it should go without saying, a permit is neither approved nor denied if the County exceeds codified permit review timeframes. Nonetheless, it is recommended that we add the following section so as to make it clear. (Note that there is an exception for wireless facilities, our rules for which are preempted by Federal law.)

TITLE 22 LAND USE AND DEVELOPMENT

Chapter 22.05 PROJECT PERMIT PROCEDURES

22.05.130 Permit Review Timeframes.

(…)

(4) The provisions of this Section notwithstanding, the failure to issue a final decision within the timeframes specified shall not be considered an implicit approval or denial of the development permit, nor shall it be reason in and of itself for the County to be liable for damages for failure to meet the specified time frames.

(a) Exception. Eligible facility requests for personal wireless service facilities shall be governed by WCC 22.05.130(1)(d).

14) (POLICY CHANGE) Allow Transfer of Development Rights (TDR) Receiving Areas in Urban Growth Areas (UGAs) only

The County's TDR program allows for the transfer of development rights from one property to another under certain circumstances "to provide flexibility and better use of land and building techniques; to help preserve critical areas, watersheds, and open space; to provide more equalization of property values between various zones than would normally be the case; and to work toward achieving county-wide land use planning goals." (WCC 20.89.010)

Sending and receiving areas (where development rights are moved from and to) are designated by Council as described in WCC 20.89.040 (Sending Areas) and WCC 20.89.050 (Receiving Areas) and as shown on the Official Zoning Map.

Council can designate new areas through a code amendment, though there are few criteria for doing so. It has come to our attention that allowing the transfer of development rights (i.e., density) from one rural area to another wouldn't really serve the purpose of protecting rural character by encouraging higher densities in those areas planned for higher densities (i.e., in cities or UGAs). Therefore, staff proposes some amendments to this chapter, as shown below. Most of the amendments just fix grammar and code structure. The one policy change would be that shown in §20.89.050(2)(a), which would require that receiving areas be in UGAs or cities, which is consistent with Dept. of Commerce guidance (https://deptofcommerce.app.box.com/s/pbi8qhqijcv6jn6u5raztdw028htjimc).

TITLE 20 ZONING

Chapter 20.89 ~~Density~~ Transfer of Development Rights~~Procedure~~

20.89.010 Purpose.

The purpose of this chapter is to establish procedures for the transfer of development rights from one property to another. Where the applicable Comprehensive Plan policies and an appropriate overlay zone~~,~~ or zoning map designation~~,~~ provide the option for transfer of development rights (TDRs), the rights shall be transferred consistent with the requirements of this chapter~~,~~ and the requirements of the sending ~~areas~~ and receiving areas as defined in this chapter and identified on the official Whatcom County zoning map.

The transfer of development rights from one property to another is allowed in order to protect rural character by better concentrating density in cities and Urban Growth Areas; provide flexibility and better use of land and building techniques; to help preserve critical areas, watersheds, and open space; to provide more equalization of property values between various zones than would normally be the case; and to work toward achieving county-wide land use planning goals, the objectives of subarea plans and of this ~~t~~Title, and implementation of the goals, policies, and action plans of the Whatcom County Comprehensive Plan.

Commented [CES3]: Added to support new policy 20.89.050(2)(a) (though this should have been the main reason from the start).

20.89.040 Sending Areas.

(1) All sending areas shall be shown on the Official Zoning Map.

(2) New sending areas may be designated by the County Council through a Zoning Map amendment (see WCC Chapter 22.10 (Legislative Action Procedures)).

(3) Sending areas may be created in the Rural, Rural Residential, Rural Residential-Island, Eliza Island Agriculture, Rural Forestry, Lake Whatcom Overlay, and Water Resources Protection Overlay districts.

~~.041 **Designation of Sending Areas.** In addition to those areas which qualify as sending areas according to the official Whatcom County zoning map, the county council may approve additional sending areas. Such additional areas may be approved only through the process established for amendments to the official Whatcom County zoning map and pursuant to the procedures and requirements in Chapter 22.10 WCC, Amendments.~~

(4) ~~.042~~ **Urban Residential (UR) and Rural Residential (RR) Sending Areas.** Parcels zoned UR or RR within a designated sending area shall be granted certified TDR units based upon the official zone density for parcels with public water and sewer, regardless of whether such services are currently available to the subject parcel(s). ~~For purposes of determining available TDRs only, parcels located within a designated sending area that are zoned UR, and which do not currently have public water and sewer service, shall be certified TDRs based upon the official zone density for a parcel with public water and sewer, regardless of whether public water and sewer service is currently available to the subject parcels. Sending parcels that are zoned RR, which currently have neither public water or sewer, shall be certified TDRs based upon the official zone density for an RR parcel that does have public water or sewer available.~~

20.89.050 Receiving Areas.

(1) All receiving areas shall be shown on the Official Zoning Map.

(2) New receiving areas may be designated by the County Council through a Zoning Map amendment (see WCC Chapter 22.10 (Legislative Action Procedures)). The designation of TDR receiving areas shall be based on findings that:

(a) The area is within an Urban Growth Area or city, and thus appropriate for higher densities,

(b) Is not limited by significant critical areas; and,

(c) Neighboring areas would not be significantly adversely impacted.

~~**.051 Designation of Receiving Areas.** In addition to those areas which qualify as receiving areas according to the official Whatcom County zoning map, the county council may approve additional areas as receiving areas.~~

~~(5) **Designated Receiving Areas.** Such additional areas may be approved through the process established for amendments to the official Whatcom County zoning map and pursuant to the procedures and requirements in Chapter 22.10 WCC, Amendments.~~

(3) ~~Cities.~~ In cooperation with Whatcom County, cities may designate ~~additional~~ TDR receiving areas within their jurisdictional boundaries for the purposes of receiving transferred densities ~~pursuant to this chapter~~. ~~Under the above provisions, the designation of additional TDR receiving areas shall be based upon findings that the area/site is appropriate for higher residential densities, is not limited by significant critical areas, and neighboring areas would not be significantly adversely impacted.~~

~~(1)~~(4) ~~If such areas are determined to be appropriate for designation as TDR receiving areas/sites, prior to development,~~ When using TDR units in a receiving area, the purchase of TDRs shall not be required until such time that the requirements of WCC 20.89.060 have been met, though they must be parcel owners shall be required to purchased ~~TDRs~~prior to development ~~to attain the maximum~~

Commented [CES4]: Added since the code didn't specify where these can be. We have listed all rural and resource zones where residential uses are allowed and from which we might want density transferred.

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Commented [CES5]: New policy consistent with state guidance.

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Commented [CES6]: Incorporated into 20.89.050(2)

~~gross density requested under the proposed zoning. The purchase of TDRs shall not be required until such time that the requirements of WCC 20.89.060 have been met.~~

~~(6) **Water Resource Protection Overlay District.** Development rights may be transferred within the water resource protection overlay district for an increase in impervious surface pursuant to Chapter 20.71 WCC.~~

(5) ~~.052~~ **Receiving Area Eligibility.**

(1) **Bellingham UGA ~~Subarea~~ Receiving Areas.** Only development rights from the Lake Whatcom sending area may be transferred to receiving areas within the Bellingham **Urban Fringe**~~subarea~~.

(2) **Birch Bay UGA ~~Subarea~~ Receiving Areas.** Development rights from any sending area may be transferred to receiving areas within the Birch Bay subarea.

Commented [CES7]: One doesn't have to apply for a change in zoning to use TDRs in designated receiving areas, so this doesn't make sense.

Commented [CES8]: Proposed for deletion as it makes no sense. We can't have TDRs transferred within or to an WRPO if we're now saying receiving areas can only be in UGAs or cities, as none of the WRPO is. Additionally, I'm not sure how one transfers impervious surfaces, and 20.71 doesn't speak to it.

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15) Fixing a consistency error overlooked in Ordinance 2022-061

On 9/27/2022 Council adopted Ordinance 2022-061, amending the Lake Whatcom Overlay and the Water Resources Protection Overlay districts. Though part of the intent was to standardize and clarify some of the language between the two districts, staff overlooked one section: That governing seasonal clearing activity limits. While the text of §20.51.410 (LWOD) was amended, the same language found in §20.80.735 (WRPO) was not. Staff proposes to rectify this oversight by amending §20.80.735 in same manner. This does not change policy; it only clarifies the language.

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.735 Water resource special management areas.

(…)

(2) Within water resource special management areas, clearing activity must conform to the following conditions:

(…)

(d) **Seasonal Clearing Activity Limitations.** In the Lake Samish and Lake Padden watersheds, clearing activity, as defined in WCC Chapter 20.97~~.054~~, or forest practices regulated by Whatcom County that will result in land disturbance ~~exposed soils~~ exceeding 500 square feet shall ~~not~~ be prohibited ~~permitted~~ from October 1st through May 31st; provided, that:

(i) In addition to the clearing activities exempted under WCC 20.80.733, the Director may approve an exemption to this requirement for the following activities:

(A) Routine maintenance and repair of erosion and sediment control measures;

(B) Activities located at or waterward of the ordinary high-water mark subject to state, federal, and/or local (per Chapter 16.16 WCC and/or WCC Title 23) requirements, including commencement of clearing activity during the wet season, as defined in subsection (1)(a)(ii) of this section, for purposes of minimizing surface water disturbance and site inundation by high water or wave action;

(C) Activities necessary to address an emergency that presents an unanticipated and imminent threat to public health, safety, or the environment that requires immediate

action within a time too short to allow full compliance with this section. Upon abatement of the emergency situation, the clearing activity shall be reviewed for consistency with this chapter and may be subject to additional permit requirements; provided, that the applicant shall make a reasonable attempt to contact the Director prior to the activity. When prior notice is not feasible, notification of the action shall be submitted to the Director as soon as the emergency is addressed and no later than two business days following such action. Emergency construction does not include development of new permanent protective structures where none previously existed.

(ii) To ensure compliance with ~~subsection (2)(e) of~~ this section, the Director shall not issue development permits requiring more than 500 square feet of land disturbance located within the Lake Samish or Lake Padden watersheds from September 15th through May 31st ~~within two weeks prior to the watershed seasonal closure on October 1st~~.

(iii) Soil disturbance associated with an exempt clearing activity shall be minimized to the maximum extent practicable. The Director shall have the authority to condition an exempt activity to ensure that temporary erosion and sediment control measures will be implemented.

(iv) An exemption from the seasonal land clearing requirements of this section does not grant authorization for any work to be done in a manner that does not comply with other provisions of this chapter or other applicable development regulations.

(e) **One Hundred Fifty Percent Violation Fines.** When a violation occurs in an area designated as a water resource special management area, the total fine assessment shall be increased to 150 percent of the standard penalty as provided for in Chapter 20.94 WCC, Enforcement and Penalties.

Commented [CES9]: Wrong reference. 2e is about enforcement; this statement is about complying with (d).