

CLEARANCES:	Initial	Date	Date Received in Council Office	Agenda Date	Assigned To
Originator-jrg c:\f2\2\Ab	JTG	1/3/94		1/11/94	Council Intro
Division Head-	DWT	1/3/94		1/25/94	Council Hearing
Department Head-	WJB	1/3/94			
Prosecutor Review-	K.F.	1/3/94			
Purchasing/Budget Dir.-					
Executive-	[Signature]	1/3/94			

SUBJECT: FILE REF: AN ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, CHAPTER 94, ENFORCEMENT AND PENALTIES, TO ALLOW CLASS 1 CIVIL INFRACTION PENALTIES FOR VIOLATIONS OF TITLE 20.

ATTACHMENTS: Draft Ordinance
RCW Chapter 7.80

Public Hearing Needed? Yes /xx/ No / /

SUMMARY STATEMENT: When Ordinance #93-056 (Mt. Baker Rim) was adopted last September, Council modified the Planning Commission recommendation in order to delay the effective date for one year. This delay gave the various recreational subdivision associations some time to solve their problems internally by changing their own covenants before RV's become a permitted use in the Foothills under our new code. There was some unfinished business, however, regarding the new enforcement language. Karen Frakes, Civil Deputy Prosecuting Attorney, recommended modifications to the proposed language; Council deferred this issue by default with the one year extension of the effective date.

The enclosed ordinance contains the language preferred by Frakes. If adopted, this ordinance will allow the County to start utilizing the civil infraction system for violations of Title 20 without further delay. The present system treats minor offenses to the code as criminal, often requiring the county to press criminal charges in order to fully enforce Title 20. A better procedure has been established under state law (RCW 7.80). In 1987, the state legislature found that many minor offenses established as misdemeanors could be more appropriately penalized by the imposition of civil fines. The establishment of a system of civil infractions is a more expeditious and less expensive method of processing minor offenses and will decrease the cost and workload of both the courts as well as code enforcement officers.

RECOMMENDED ACTION: The Director of Planning and Development Services recommends that Council adopt the proposal.

COMMITTEE ACTION (including dates):

COUNCIL ACTION (including dates):

1/11/94: Council introduction
1/25/94: Council hearing - Council adopted the ordinance. 7-0.

Related File Numbers: _____ **Ordinance or Resolution Number:** Ord 94-005

ORDINANCE NO. 94-005

AN ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, CHAPTER 94, ENFORCEMENT AND PENALTIES, TO ALLOW CLASS 1 CIVIL INFRACTION PENALTIES FOR VIOLATIONS OF TITLE 20.

WHEREAS, the Planning Department, together with the Division of Buildings and Code and Prosecuting Attorneys Office, has recommended amending the text of the Official Whatcom County Zoning Ordinance, Title 20, Enforcement and Penalties Chapter to establish a civil infraction system; and,

WHEREAS, enforcement is a major problem for Whatcom County with the present system under the land use code treating minor offenses as criminal, which requires the county to eventually press criminal charges in order to fully enforce the letter of the law; and,

WHEREAS, in 1987, the state legislature found that many minor offenses that are established as misdemeanors could be more appropriately punished by the imposition of civil fines, allowing resources of the legal system to focus more on serious criminal behavior; and,

WHEREAS, the Whatcom County Council has recently utilized this state law with the adoption of new ordinances into the Whatcom County Code, but has not clearly established it within Title 20; and,

WHEREAS, by utilizing the provisions of state law (RCW 7.80), violations of Whatcom County's land use code, Title 20, can be treated as civil infractions which will decriminalize minor offenses, facilitate enforcement of Title 20, and decrease the cost and workload of the courts.

NOW THEREFORE BE IT ORDAINED BY THE WHATCOM COUNTY COUNCIL:

1. Title 20, the Official Whatcom County Zoning Ordinance, is hereby amended as shown in the attached Exhibit A.
2. The Council finds the public health, safety and general welfare are promoted by this change.
3. Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

PASSED this 25th day of January, 1994

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Robert Imhof
Robert Imhof, Chairperson

APPROVED VETOED

ATTEST:

Karen Frakes
Clerk of the Council

Shirley Van Zanten
Shirley Van Zanten, County Executive

APPROVED AS TO FORM:

Karen Frakes
Karen Frakes, Civil Deputy Prosecuting Attorney

Date 1-26-94

EXHIBIT A

TITLE 20 - THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE

20.94.010 ENFORCEMENT AND PENALTIES

~~Any person, firm, company or corporation who violates, disobeys, omits or neglects any of the provisions of this Ordinance shall be subject to a fine of not more than five hundred dollars (\$500.00), together with costs of action and imprisonment in the county jail for a period of not more than six (6) months. Compliance therewith may be by injunction order at the suit of the county or the owner or owners of land within the district affected by the regulations alleged to be violated.~~

Violations of this Title shall constitute Class 1 civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with RCW 7.80. All violations shall be heard and determined in accordance with the system established in RCW 7.80. Employees of the Whatcom County Department of Planning and Development Services, or its successor agency, if any there be, as well as all others who are otherwise authorized to enforce ordinances of this county, are hereby authorized to enforce the provisions of this Title, consistent with the provisions of RCW 7.80.

After having been found to have committed two successive infractions for violations of the same provision of this title on the same property, any person, firm, company or corporation who continues to violate this title in the same manner on the same property shall be subject to criminal penalties including a fine of not more than five hundred dollars (\$500.00), together with costs of action, and imprisonment in the county jail for a period of not more than six (6) months.

In addition to the civil and criminal remedies provided for above, the county or the owner or owners of land affected by violations of the provisions of this title may bring such injunctive, declaratory or other actions as deemed necessary to ensure that violations are prevented or cease, and to otherwise enforce the provisions of this title.