

ARRANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Terry Galvin	GA	02/02/94	<b>RECEIVED</b>  <b>FEB 02 1994</b>  <b>WHATCOM COUNTY COUNCIL</b>	2/8/94	Council Introduction
Division Head: Dan Taylor	DT	2/2/94		3/8/94	Hearing
Dept. Head: Nate Brown	NB	2/2/94		3/22/94	P&D/Council
Prosecutor:	KAF	2/2/94		4/5/94	Hearing
Purchasing/Budget:					
Executive:					

**SUBJECT:** An Ordinance amending Title 20, 21, and the Critical Areas Ordinance to include Regulatory Language that establishes the basis for developing and administering the Stormwater Provisions of the Whatcom County Development Standards

**ATTACHMENTS:** Proposed Ordinance  
 Agency Report with attached Staff Report  
 Draft Planning Commission Minutes

**SUMMARY STATEMENT:** Please complete sections of box as appropriate & explain the item below.

ted County contract #: n/a	Should Clerk schedule a hearing? NO /X/ YES / / Requested date:
Amount budgeted for this item/project: \$ n/a	Is it (or will it be) within budget? YES / / NO / / (Please explain below) n/a
Budget line item number(s): n/a	

The proposal is to amend Title 20, 21, and the Critical Areas Ordinance to include regulatory language that will establish the basis for developing and administering stormwater management provisions of the Whatcom County Development Standards.

The Planning Commission did not substantially deviate from the original staff draft. The did however a fair amount of time re-defining "development" and "agriculture."

**ORIGINATOR'S RECOMMENDED ACTION:** The Director of Planning and Development Services recommends Council accept the Planning Commission recommendation and adopt the proposed ordinance.

**COMMITTEE ACTION TAKEN:**

**COUNCIL ACTION TAKEN:**

- 2/8/94: Council introduction
- 3/8/94: Hearing - work session to be scheduled at a later date
- 3/22/94: Tabled until hearing on April 5
- 4/5/94: Council adopted the ordinance with amendments. 5-1 with Brenner opposed and Henderson absent.

**Related File Numbers:**

**Ordinance or Resolution Number (this item only):**  
 Ord 94-022

SPONSORED BY: Planning

PROPOSED BY: Council

INTRODUCTION DATE: 2/8/94

ORDINANCE NO. 94-022

1  
2 AN ORDINANCE AMENDING TITLE 20, 21, AND THE CRITICAL AREAS ORDINANCE TO  
3 INCLUDE REGULATORY LANGUAGE THAT ESTABLISHES THE BASIS FOR DEVELOPING  
4 AND ADMINISTERING THE STORMWATER PROVISIONS OF THE WHATCOM COUNTY  
5 DEVELOPMENT STANDARDS.  
6

7       **WHEREAS**, the County Council passed Resolution No. 90-36 in April 1990, to form  
8 a technical advisory committee to review, evaluate, and revise the Whatcom County  
9 Development and Subdivision Standards; and  
10

11       **WHEREAS**, the 1991 Puget Sound Water Quality Management Plan mandates  
12 Counties adopt stormwater controls by July 1, 1994; and  
13

14       **WHEREAS**, the Lake Whatcom Advisory Committee recommended that stringent  
15 stormwater standards be put in place for the City of Bellingham's municipal water supply;  
16 and  
17

18       **WHEREAS**, a technical committee consisting of representation from the Buildings  
19 and Code Administration, the Division of Engineering, and the Planning Department  
20 developed these amendments and made recommendations to the Planning Commission;  
21 and

22       **WHEREAS**, as a parallel action, the Whatcom County Council amended Chapter  
23 12.08, providing the legislative authority for development of stormwater regulations and  
24 standards; and  
25

26       **WHEREAS**, pursuant to RCW 36.70.590, legal notice was published in the  
27 Bellingham Herald on Thursday September 9, 1993; and  
28

29       **WHEREAS**, a Determination of Non-Significance had been issued on August 23,  
30 1993 by the responsible Deputy SEPA Official; and  
31

32       **WHEREAS**, the Planning Commission held a public hearing September 21, 1993 and  
33 kept the written record open until October 1, 1993; and  
34

35       **WHEREAS**, the Planning Commission held work sessions on October 13, November  
36 10, and December 8 and 15, 1993, and after due deliberation and consideration of all  
37 testimony approved the recommendation, with amendments; and  
38

39       **WHEREAS**, the Council at a public meeting on February 22, 1994, reviewed and  
40 approved the Planning Commission recommendation; and  
41

42       **WHEREAS**, the Council found the amendments in the best interest of the public

1 health, safety, and welfare; and

2  
3 **WHEREAS**, the Council has adopted the following Findings and Conclusions:

4  
5 Findings

- 6  
7 1. 1991 Puget Sound Water Quality Management Plan published by the Puget Sound  
8 Water Quality Authority mandates that Counties adopt stormwater controls by July  
9 1, 1994.
- 10  
11 2. The existing Development Standards document combines regulation with  
12 administrative and technical standards; thus, creating a cumbersome amendment  
13 process.
- 14  
15 3. In 1989, the Department of Ecology approved a grant of which \$22,000 was  
16 allocated to the city and county for developing stormwater runoff standards for the  
17 Lake Whatcom watershed.
- 18  
19 4. On April 24, 1990, the County Council passed Resolution No. 90-36 to form a  
20 technical advisory committee to review, evaluate, and revise the Whatcom County  
21 Development and Subdivision Standards.
- 22  
23 5. This process will provide the basis for more specific and dependable management  
24 tools for development in Whatcom County.

25  
26 Conclusion

27  
28 The proposed regulatory amendments establish the basis for development and  
29 administration of stormwater standards which meet the requirements of WCC 12.08 and  
30 State and Federal law.

31  
32 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that:


33  
34 Section 1. Title 20, Title 21, and the Critical Areas Ordinance is hereby amended as  
35 indicated as Exhibit A.

36  
37 Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this  
38 Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part  
39 thereof other than the part so declared to be invalid.

2 ADOPTED this 5th day of April, 1994.  
3  
4  
5

6  
7 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

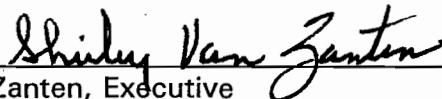
8  
9  
10   
11 Ramona Reeves, Council Clerk

12   
13 Robert Imhof, Chairperson

14  
15  
16 APPROVED, as to form & content:

Approved  Denied

17   
18 Karen Frakes, Civil Deputy Prosecutor

19   
20 Shirley Van Zanten, Executive

21  
22 Date: 5-9-94  
23

**EXHIBIT A**

**COUNTY COUNCIL AMENDMENTS TO EXISTING REGULATORY TEXTS OF  
TITLE 20, TITLE 21 AND THE CRITICAL AREAS ORDINANCE.**

**I. AMENDMENTS AND ADDITIONS TO TITLE 20, OFFICIAL WHATCOM  
COUNTY ZONING ORDINANCE**

Chapter 20.20: Urban Residential District

.253 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.22: Urban Residential Medium Density

.655 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.32: Residential Rural

.655 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.34: Rural Residential-Island

##### .658 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.36: Rural District

##### .655 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.40: Agriculture District

##### .653 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.42: Rural Forestry District

##### .256 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal

requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.43: Commercial Forestry District

.253 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.44: Recreation and Open Space District

.652 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.60: Neighborhood Commercial District

.655 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.62: General Commercial District

.653 Drainage

All development activity within Whatcom County shall be subject to the

stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.63: Tourist Commercial District

##### .654 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.64: Resort Commercial District

##### .655 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.65: Gateway Industrial

##### .654 Sewer, Water and Drainage

[Existing Language]Stormwater detention shall be [new language] consistent with Best Management Practices and [existing language] shall be sufficient to prevent post-development run-off exceeding pre-development runoff. Drainage plans shall be reviewed and approved by the County Engineer, pursuant to Section 20.80.630 of the Official Whatcom County Zoning Ordinance. Public water and sewer service shall be provided by Water Districts, Sewer Districts, and/or Municipalities before any development occurs ..... [The rest of the text addresses exceptions such as agricultural activity].

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.66: Light Impact Industrial District

##### .653 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.67: General Manufacturing District

##### .653 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

#### Chapter 20.68: Heavy Impact Industrial District

##### .653 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.70: Airport Operations District

.653 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.72: Point Roberts Special District

.653 Drainage

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.80: Supplementary Requirements

20.80.600

*.630 Delete existing language and replace with the following language:*

.630 Stormwater and Drainage

- A. All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.
- B. No development permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

.631 Exemptions

- A. Agricultural activities as defined in this Ordinance, and forest practices regulated under Title 222 WAC, except for Class IV, General Forest Practices, are exempt from the provisions of these

regulations.

- B. Development undertaken by the Washington State Department of Transportation in State Highway Right-of-Way when regulated by Chapter 173-270 WAC, the Puget Sound Runoff Program.

**.632 Small Development Impervious Surface Treatment**

- A. The following new development activity shall not be required to meet the permanent stormwater quality and quantity controls that apply to large development activity outlined in .633 below, but shall be required to control erosion and sediment during construction, to permanently stabilize soil exposed during construction and to ensure protection to adjacent properties from stormwater effects caused by the small parcel development:

1. Individual detached single family residences and duplexes.
2. Creation or addition of less than 5,000 square feet of impervious surface area.

- B. Small parcel requirements

1. All exposed and unworked soils shall be stabilized by suitable application of Best Management Practices, including but not limited to sod or other vegetation, plastic covering, mulching or application of gravel base on areas to be paved. Soils shall be stabilized immediately during the fall, winter and spring months.
2. Adjacent properties shall be protected from sediment deposition by suitable application of Best Management Practices; including, but not limited to, appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures, or other approved methods.
3. All stormwater quality and quantity controls shall be inspected and maintained on a regular basis.

**.633 Large Development Impervious Surface Treatment**

A preliminary Stormwater Proposal must be submitted to the County Engineer for any use covering more than 5,000 square feet with impervious surfacing. The County Engineer may require such modifications and

improvements as deemed necessary to ensure the protection of County drainage facilities and neighboring property. No building permit shall be issued until a drainage control plan is approved by the County Engineer.

.634 Special Districts:

Where the comprehensive plan policies identify a specific area that requires higher standards for stormwater drainage facilities, a "special district" shall be created by Council action. Requirements for these areas shall be contained in the Whatcom County Development Standards, Chapter 2, under the title, "Special Districts."

.635 All Development shall conform to the following requirements:

**GENERAL**

- (a) Stormwater discharges must be controlled and treated to provide all known available and reasonable methods of prevention, control, and treatment, as required by law.
- (b) In all areas where connection to public sewer and water are required by Title 20, where appropriate as determined consistent with Best Management Practices, on-site stormwater collection and detention shall also be required for development in accordance with the Whatcom County Development Standards, unless the engineered drainage analysis proves otherwise.
- (c) Best Management Practices (BMPs) shall be used to comply with the regulations in this ordinance. In those instances where appropriate BMPs are not referenced in the Whatcom County Development Standards, experimental BMPs should be considered. Experimental BMPs shall be encouraged as a means of solving problems in a manner not addressed by the standards in an effort to improve stormwater quality technology. Experimental BMPs must be approved by the County Technical Administrator prior to implementation.
- (d) Development shall minimize impervious surface areas with minimal compromise of project function and viability. Ground water and aquifer recharge are important objectives which shall be incorporated in surface water management facilities consistent with established BMPs.
- (e) Stormwater systems shall not be constructed in such a manner that they materially degrade natural systems such as streams and their banks, wetlands, ponds or lakes.
- (f) Natural drainage patterns shall be maintained and discharges from the site shall occur at the natural location, unless it can be shown that

relocation will have no significant adverse impact to either built or natural systems as a result of the relocation.

- (g) The design of stormwater systems shall be an integral part of the overall development design and, in addition to the primary storage and conveyance function, should incorporate multiple use provisions to enhance the project; such as the following:

1. recreation
2. public safety
3. economical maintenance
4. aesthetic integration into the landscape and project design
5. wildlife habitat
6. education
7. open space

#### **RUNOFF CONTROL**

- (a) Proposed development projects, except as noted below, shall provide runoff controls to limit the developed conditions peak rates of runoff to the pre-development peak rates for the following storm events in compliance with Best Management Practices:

- (1) The 1-year storm event
- (2) The 10-year storm event
- (3) The 25-year storm event
- (4) The 100-year storm event

- (b) Exceptions: Direct discharge to regional facility, salt water body, rivers or lakes when demonstrated there is no significant adverse impact to the conveyance system and the receiving waters.

#### **CONVEYANCE**

Stormwater conveyance systems shall be required to convey storm flow and shall be sized to accommodate:

- (1) flow from 100-year storm events when public health and safety is put at risk by such events;
- (2) flow from 25-year storm events when property damage is probable from such events;
- (3) flow from events of periodicity of less than 25 years when the integrity of natural systems, such as the dominant stream

discharge, is put at risk by such events.

### **WATER QUALITY**

Runoff from any project shall provide a water quality assurance plan and system to achieve minimal degradation to the surface and ground water quality leaving the site, utilizing BMPs.

### **MAINTENANCE**

All stormwater facilities shall be maintained in accordance with the stormwater system maintenance requirements of the Whatcom County Development Standards. Maintenance plans, responsibilities, and the method of financing said maintenance shall be established by the applicant or property owner prior to final approval of any development directly associated with the development proposal.

## **Chapter 20.85: PLANNED UNIT DEVELOPMENT [PUD]**

### **.113 Drainage and Land Alteration**

- (1) [existing language] Land alteration shall [new language] may [existing language] commence when in compliance with Whatcom County land alteration standards.

## **II. AMENDMENTS AND ADDITIONS TO TITLE 21, WHATCOM COUNTY SUBDIVISION REGULATIONS**

[All amendments found in 20.80 of Title 20 shall be reproduced in appropriate sections of Title 21.

## **III. AMENDMENTS AND ADDITIONS TO THE WHATCOM COUNTY CRITICAL AREAS ORDINANCE**

### **Chapter 10.8 REGULATORY REQUIREMENTS**

#### **.7 Stormwater Discharge**

- A. The requirements below apply to stormwater discharges into wetlands through a conveyance system:
  1. Stormwater discharges to wetlands shall be

- controlled and treated to provide all known and reasonable methods of prevention, control, and treatment as mandated in the State Water Quality Standards, Chapter 173-201A WAC, as required by State law.
2. Created wetlands that are intended to mitigate for loss of wetland acreage function and value shall be designed using Best Management Practices to replicate and protect all functions of natural wetlands.
  3. Wetlands shall not be used for the treatment of stormwater except when the stormwater facility meets all of the following criteria:
    - a. The use of upland sites is determined by the County Technical Administrator to be unfeasible; criteria for such a determination shall be included in the Whatcom County Development Standards.
    - b. The functions and values of the existing wetland are enhanced by the creation of a constructed wetland not materially degraded by its use in stormwater management.
  4. Upon meeting the criteria above in 10.8.7(A.3), constructed wetlands may be located in category III wetlands, under the following conditions:
    - a. Constructed wetlands may be located in category III wetlands when the existing condition of the wetland is degraded.
  5. A degraded wetland is one that has over 80% of non-native vegetation species; including, but not limited to, reed canary grass and common pasture grasses, hardtack, soft rush, and alder less than 25 years of age.