

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Jeff Monsen	JM	6/20/94	RECEIVED JUN 22 1994 WHATCOM COUNTY COUNCIL	6/28/94	Council Introduction
Division Head:				7/12/94	Public Services/Council
Dept. Head:	JM	6/20		8/2/94	Council Hearing
Prosecutor:	RW	6/20			
Purchasing/Budget:					
Executive:	J	6/21/94			

SUBJECT:

An Ordinance Providing for an Annual Integrated Roadside Vegetation Management Program

ATTACHMENTS:

Ordinance

SUMMARY STATEMENT:

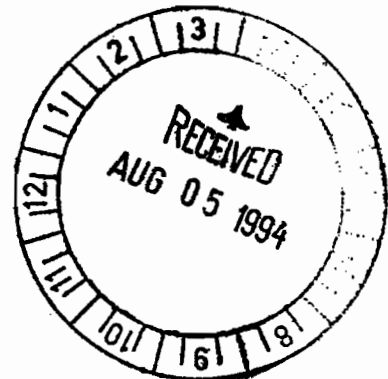
Please complete sections of box as appropriate & explain the item below.

Related County contract #: N/A	Should Clerk schedule a hearing? NO / <input type="checkbox"/> / YES / <input checked="" type="checkbox"/> / Requested date:
Amount budgeted for this item/project:	Is it (or will it be) within budget? YES / <input type="checkbox"/> / NO / <input type="checkbox"/> (Please explain below)
Budget line item number(s):	

This ordinance providing for the annual vegetation management program is amended to update some of the language and tie the review process to the budget process.

ORIGINATOR'S RECOMMENDED ACTION:

Pass ordinance.



COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN:

- 6/28/94: Council introduction
- 7/12/94: No Action
- 8/2/94: Council adopted the ordinance. 7-0

Related File Numbers:

Ord
 Ordinance or Resolution Number (this item only): 94-044

1 SPONSORED BY: Consent

2 PROPOSED BY: Transportation Services - M & O

3 INTRODUCTION DATE: 6/28/94

4 ORDINANCE NO. 94-044

5 AN ORDINANCE PROVIDING FOR AN ANNUAL INTEGRATED ROADSIDE
6 VEGETATION MANAGEMENT PROGRAM, WHICH MINIMIZES THE USE OF
7 PESTICIDES AND MINIMIZES OR PROHIBITS THE USE OF HERBICIDES IN
8 CERTAIN AREAS OF THE COUNTY

9 WHEREAS, a pesticide includes a wide assortment of chemicals with specialized
10 names and functions ~~in including:~~

11 ~~AVICIDES To control pest birds~~

12 ~~BACTERICIDES To control bacteria~~

13 ~~FUNGICIDES To control fungi~~

14 ~~INSECTICIDES To destroy insects and related arthropods~~

15 ~~HERBICIDES To control weeds and other undesirable plants~~

16 WHEREAS, it is the policy of Whatcom County in limiting usage of pesticides to
17 include only herbicides; and

18 WHEREAS, the Whatcom County Council has held public hearings on the use of
19 pesticides as a part of their annual integrated roadside vegetation management program; and

20 WHEREAS, it is the policy of Whatcom County in limiting usage of pesticides to
21 include only herbicides in vegetation management. The goals of this program should include,
22 along with its other goals related to road safety and vegetation weed control, the goal of
23 minimizing the use of herbicides. ~~in consideration of the perceived risks posed by herbicides~~
24 ~~to human health and safety.~~

25 NOW, THEREFORE, BE IT ORDAINED Whatcom County shall minimize the use of
26 herbicides for vegetation control along maintained road rights-of-way, and shall set specific
27 goals and timetables for minimizing the use of herbicides.

1 BE IT FURTHER ORDAINED that the Whatcom County Council approves the use of
2 certain herbicides to be utilized in the ~~Public Works~~ Transportation Services annual integrated
3 roadside vegetation management program in accordance with Chapter 17.21 RCW under the
4 following conditions:

5 A. The only herbicides authorized for use by an applicator shall be those currently
6 registered by the Environmental Protection Agency and the Washington State
7 Department of Agriculture.

8 B. All herbicides shall be applied in accordance with the standards set forth by the
9 State Department of Agriculture and chemical labels.

10 C. Anyone responsible for and applying the herbicides shall be licensed by the
11 Washington State Department of Agriculture. Further, the ~~Public Works~~
12 Transportation Services Department, Maintenance & Operations Division, shall
13 engage in an on-going program to upgrade the expertise of its personnel in
14 integrated vegetation management alternatives and in the selection and safe
15 application of herbicides. The ~~Public Works~~ Transportation Services
16 Department, in consultation with the County Industrial Safety officer, shall
17 develop a program to protect the safety of employees and others who work or
18 come in contact with the County's herbicides, and shall develop a written
19 procedures manual covering the selection, storage, transportation, application
20 and disposal of herbicides used by the program.

21 D. (Applies to all persons applying herbicides on maintained County road right-of-
22 ways). At least one week prior to actual chemical treatment, ~~Public Works~~
23 Transportation Services Department Roads Division of Maintenance &
24 Operations shall give due notification through the news media: radio, local
25 newspapers, and post notices at various public places, including, but not limited
26 to post offices, stores, grange halls, fire stations, etc. The notices shall contain

1 the areas, the names of the herbicides to be utilized, the approximate number of
2 miles to be treated, and the person and telephone number to contact for further
3 information or to register protests. The notices shall also provide information
4 on the right to enter into "Owner Will Maintain" agreements. Non-County
5 applicators shall notify ~~Public Works Transportation Services~~, Roads Division
6 of Maintenance & Operations Division of Whatcom County at least two weeks
7 prior to application of herbicides.

8 E. (Applies to County only.) In addition, signs shall be conspicuously posed in
9 the area(s) to be sprayed or chemically treated at least one (1) week prior to
10 actual treatment. Signs shall include information regarding the anticipated date
11 of chemical treatment, the herbicide(s) to be used, and the roads to be treated.
12 ~~Immediately following~~ Following the use of herbicides, the notices along the maintained
13 roadways shall be changed or alerted with a sign stating that chemical treatment
14 has occurred, naming the chemical used. A faithful record of comments and
15 protests received shall be made, preserved and made available to the public.

16 F. The Director of ~~Public Works Transportation Services~~ shall submit annually to
17 the Whatcom ~~County Council~~ County Executive, a listing of all areas and the
18 names of approved herbicides to be utilized in the annual integrated roadside
19 vegetation management program.

20 G. Prior to forwarding a copy of the annual vegetation management plan to the
21 Executive, the Director of ~~Public Works Transportation Services~~ shall schedule
22 a meeting ~~of the following committee during the first quarter of each calendar~~
23 year with the County Council Public Services Committee in July of each
24 calendar year as part of the budget process. The committee shall review the
25 plan and make recommendations for changes as deemed necessary. ~~Majority~~
26 ~~rule shall apply.~~

1 ~~H. The Committee shall consist of nine representatives: four shall be from the~~
2 ~~sensitive areas identified in this ordinance, one from the Parks Department, one~~
3 ~~from Cooperative Extension, one Councilperson from the Public Service~~
4 ~~Committee, a representative from the franchised utilities, and a Transportation~~
5 ~~Services Department representative who is ex officio. Selections shall be made~~
6 ~~by the respective groups and submitted to the Executive. Length of term for~~
7 ~~the committee members shall be three years. Terms shall be staggered. Three~~
8 ~~(3) people shall be initially appointed for one (1) year terms, three (3) people~~
9 ~~shall be appointed for two (2) year terms, and three (3) people shall be~~
10 ~~appointed for three (3) year terms.~~

11 BE IT FURTHER ORDAINED that the Executive shall prepare, annually update and
12 adhere to a long-range integrated vegetation management plan. An "integrated roadside
13 vegetation management plan" is one that advances the commitment to implement a variety of
14 vegetation control measures, such as biological, mechanical, manual and chemical. It seeks to
15 minimize chemical solutions, when possible, based upon the level of vegetation infestation, its
16 economic impacts, and an assessment by the ~~County Integrated Vegetation Manager~~ Roadside
17 / Vegetation Crew Leader of the economic and ecologic consequences of each type of control.
18 The plan shall assess the results of the previous year and identify additional sensitive
19 geographical areas within the county where spraying shall not take place. Such areas
20 presently include:

- 21 A. Lake Whatcom Watershed
- 22 B. Lummi Island
- 23 C. North Fork Road
- 24 D. Cornell Creek Road
- 25 E. All areas within the jurisdiction of the Whatcom County Shorelines
26 Management program.
- 27 F. All areas that may be exempted from chemical treatment by the County
28 Council now or in the future.

1 Identification of areas as being sensitive may be initiated by petition of at least 51% of
2 property owners in the area; or 60% of the citizens of the area. Exemptions may be granted
3 by the Executive in writing within 30 days of request or defacto exemption shall apply and
4 shall be limited to the hand treatment of fresh cut stumps and hand treatment of noxious
5 weeds as defined by the Noxious Weed Board. The criteria for reviewing such petitions shall
6 include such factors as the presence of groundwater, relatively high use by pedestrians or
7 children, and any other criteria the Executive or designee deems appropriate. Treatment shall
8 be allowed under new asphalt. Hand treatment within the listed sensitive geographical areas
9 shall be limited to application by licensed applicators and persons registered with ~~Public~~
10 ~~Works~~ Transportation Services, Roads Division of Maintenance & Operations of Whatcom
11 County on an annual basis to apply herbicides in the sensitive areas. Whatcom County shall
12 prepare maps showing areas exempted above for distribution to applicators.

13 Application as required for cut stumps shall be coordinated by anyone performing vegetation
14 management in identified sensitive areas with the ~~County Integrated Vegetation Manager~~
15 Roadside / Vegetation Crew Leader. The County shall limit the amount of material allowed
16 in each sensitive area to a maximum of three gallons of material suitably mixed per crew and
17 ready for application by a licensed applicator. Material shall be transported in an approved
18 container and shall be protected from spillage by an outer liner or containment vessel.

19 BE IT FURTHER ORDAINED, that the following conditions shall be adhered to by
20 the Department:

- 21 A. The use of herbicides by all persons, whether public or private entities or
22 individuals, is hereby prohibited on all county owned and maintained road
23 rights-of-way subject to use as permitted by Whatcom County franchise
24 agreement within designated sensitive geographical areas
- 25 B. All property owners who do not wish herbicides to be used in front of their
26 property shall sign an "Owner Will Maintain" Agreement. The ~~County~~
27 ~~Integrated Vegetation Manager~~ Roadside / Vegetation Crew Leader shall be
28 responsible for monitoring for compliance.

1 C. Ditches will be cleaned by non-chemical means except where vegetation only is
2 causing a blockage or if additional excavation would result in the unnecessary
3 lowering of culverts. These areas may be treated with an aquatic registered
4 herbicide only where other means are impractical and uneconomical.

5 D. Backslopes and frontslopes will be treated by non-chemical means and
6 maintained so as to retain grasses and other vegetation to prevent erosion, using
7 herbicides for such maintenance only when other means are impractical and/or
8 uneconomical.

9 E. No Public or Private entity or individual shall commence any chemical
10 treatment on any maintained county right-of-way without the prior written
11 consent of the Director of the Public Works Transportation Services
12 Department. A plan showing areas to be chemically treated shall accompany
13 any request for approval.

14 F. Ongoing testing sites will be established to evaluate various integrated
15 vegetation management techniques.

16 G. Ordinance No. 91-44 is hereby repealed and all other resolutions, or policies
17 are superseded to the extent that they are in conflict with this ordinance.

18 BE IT FURTHER ORDAINED that penalties and court enforcement shall be applied
19 as follows:

20 A. Any person, firm or corporation who fails to comply with any of the conditions
21 herein shall be guilty of a civil offense and shall be fined a sum not to exceed
22 one thousand dollars.

23 B. The penalty provided in the above section shall be imposed by a written notice
24 delivered, either by certified mail with return receipt requested or by personal

1 service, to the person, firm or corporation involved in the activity. Said notice
2 shall ~~be given by~~ originate at the Whatcom County ~~Public Works~~
3 Transportation Services Department. The notice shall include the amount of
4 the penalty imposed and shall describe the violation with reasonable
5 particularity. It shall also order the act or acts constituting the violation or
6 violations to cease and desist or, in appropriate cases, require necessary
7 corrective action to be taken within a specific and reasonable time.

8 C. After the notice is ~~received~~ postmarked, the recipient has 30 days to either pay
9 the amount designated or to make written application to the ~~Public Works~~
10 Transportation Services Department for remission or mitigation of such penalty.
11 Upon receipt of the application, said department shall review the penalty and
12 make a written decision of that review. The ~~Public Works~~ Transportation
13 Services Department's decision shall be reviewed by the County Council if the
14 aggrieved party files a written appeal with the clerk of the County Council
15 within ten (10) days of its issuance. The decision of the County Council
16 regarding the penalty imposed shall be final. In calculating the time limits
17 mentioned in this ordinance you begin calculating the time the day after the
18 decision is issued, and you include the last day. If the last day falls on a
19 Saturday, Sunday or a legal holiday, then the time limit is extended to the next
20 regular business day.

21 D. The Prosecuting Attorney may, in his discretion, bring such injunctive,
22 declaratory or other actions as deemed necessary to ensure that violations of
23 this ordinance are prevented or cease, and to otherwise enforce the provisions
24 of this ordinance.

25 E. In the event any person, firm or corporation violates any of the provisions of
26 this ordinance, the ~~Public Works~~ Transportation Services Department shall
27 cause a notice of violation to be delivered to a person of suitable age at the site


1 or place of business and order all work to cease until authorized to proceed.
2 Failure to comply with the order to stop work shall be a gross misdemeanor
3 punishable upon conviction by a minimum fine of five hundred dollars
4 (\$500.00) up to a maximum fine of one thousand dollars (\$1,000.00) or one (1)
5 year in jail, or both. Under no circumstances may the court defer or suspend
6 any portion of the minimum five hundred dollar (\$500.00) fine for any
7 conviction under this section. Each day or part thereof of noncompliance with
8 said order to stop work shall constitute a separate offense.

9 SEVERABILITY: If any sentence, clause, phrase, or portion of this code or ordinance
10 adopted herein is for any reason held to be invalid or unconstitutional by the decision of a
11 court of competent jurisdiction, such decision shall not affect the validity of the remaining
12 portions of this ordinance.

13 ADOPTED this 2nd day of August, 1994.

14
15 ATTEST:

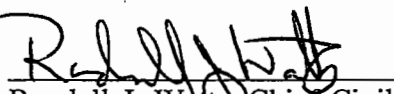
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

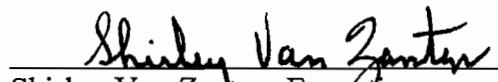
16 
17 Ramona Reeves, Council Clerk


Bob Imhoff, Council Chair

18 APPROVED AS TO FORM:

Approved () Denied

19 
20 Randall J. Watts, Chief Civil
21 Deputy Prosecuting Attorney
22


Shirley Van Zanten, Executive

Date: 8/3/94