

CLEARANCES		Date	Date Received in Council Office	Agenda Date	Assigned To
Orig. Dept.:	County Council	6/10/98		6/16/98	Introduction
Division Head:					
Dept. Head:		DBD			
Prosecutor:		Krf 7/17/98			
Budget:					
Executive:					

SUBJECT:

Ordinance establishing WCC 2.28, Horticulture Pest and Disease Board

ATTACHMENTS

Ordinance

SUMMARY STATEMENT:

Related County Contract #:	Should the Clerk schedule a hearing? (Y/N N	Requested Date:
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RECOMMENDED MOTION (for final action):

COUNCIL ACTION TAKEN:

- 1998 - 237 6/16/98: Introduced; Hearing to be scheduled
- 6/30/98: Held in committee.
- 7/14/98: Substitute amended and adopted 7 - 0, Ord. #98-047

Related File Numbers:

Ordinance or Resolution Number (this item only):

Ord. #98-047

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4
5 ORDINANCE NO. 98-047

6
7 ESTABLISHING WHATCOM COUNTY CODE 2.28, CREATING THE
8 WHATCOM COUNTY HORTICULTURE PEST AND DISEASE BOARD
9

10 WHEREAS, agriculture is very important to Whatcom County; and

11
12 WHEREAS, Whatcom County is committed to preserving agriculture by controlling and
13 preventing the spread of horticultural pests and diseases; and

14
15 WHEREAS, due to the county's location and climate, Whatcom County poses a potential pest
16 and disease threat to other agricultural areas; and

17
18 WHEREAS, RCW 15.09 allows for the establishment of a horticultural pest and disease board;
19 and


20
21 WHEREAS, the existence of a pest and disease board will allow Whatcom County growers
22 access to certain markets and gives them the opportunity to apply for funding through grants and
23 legislation; and

24
25 WHEREAS, the existence of a pest and disease board permits the Washington State Department
26 of Agriculture and the United States Department of Agriculture to assist with pest and disease
27 education.

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29 NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Council hereby establishes
30 Whatcom County Code 2.28, creating a Horticulture Pest and Disease Board as outlined in
31 Exhibit A to this ordinance.

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33 ADOPTED THIS 14 DAY OF June, 1998

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36 WHATCOM COUNTY COUNCIL
37 ATTEST:

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39 
40 _____
41 Dana Brown-Davis, Clerk of the Council

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43 APPROVED AS TO FORM:

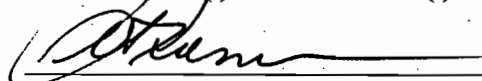
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46 _____
Karen Frakes, Deputy Prosecutor

WHATCOM COUNTY, WASHINGTON



Robert Imhof, Council Chair

APPROVED () DENIED ()



Pete Kremen, County Executive

EXHIBIT A

Chapter 2.28

Section:

- 2.28.010** **Established**
- 2.28.020** **Purpose**
- 2.28.030** **Members-Appointment-Terms**
- 2.28.040** **Meetings-Quorum-Officers**
- 2.28.050** **Powers and duties**
- 2.28.060** **Owner's duty to control pests and diseases**
- 2.28.070** **Right of entry-Search warrant**
- 2.28.080** **Failure to control horticultural pests and diseases-Remedies**
- 2.28.090** **Hearing on liability of owner for costs or charges-Review**
- 2.28.100** **Payment of expenses and costs-Penalty-Collection**
- 2.28.110** **Refund of charges paid**
- 2.28.120** **Disposition of moneys collected**
- 2.28.130** **Operating moneys**
- 2.28.140** **Abolishment of board**

2.28.010 **Established.** There is hereby established a horticulture pest and disease board for Whatcom County, created pursuant to RCW 15.09.

2.28.020 **Purpose.** The Whatcom County Horticulture Pest and Disease Board is created to enable Whatcom County to more effectively control and prevent the spread of horticultural pests and diseases.

2.28.030 **Members-Appointment-Terms.** The horticultural pest and disease board shall be comprised of five voting members, four of whom shall be appointed by the county council and one of whom shall be appointed by the director of agriculture. In addition, the chief county extension agent, or a county extension agent appointed by the chief agent, shall be a nonvoting member of the board. Of the four members appointed by the county council, one such member shall have at least a practical knowledge of horticultural pests and diseases and the other members shall be residents of the county, shall own land within the county and shall be engaged in the primary and commercial production of a horticultural product or products, one of whom shall be engaged in the production of certified organic produce, if available. Such appointed members shall serve a term of two years and shall serve without salary.

2.28.040 **Meetings--Quorum--Officers.** Within thirty days after the appointed seats on the horticultural pest and disease board have been filled, the board shall conduct its first meeting. A majority of the voting members of the board shall constitute a

quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chairman and such other officers as may be necessary.

- 2.28.050 Powers and duties.** The horticultural pest and disease board shall have the following powers and duties: (1) Receive complaints concerning the infection of horticultural pests and diseases on any parcel of land within the county; (2) Inspect or cause to be inspected any parcel of land within the county for the purpose of ascertaining the presence of horticultural pests and diseases as provided by RCW 15.09.070; (3) Order any landowner to control and prevent the spread of horticultural pests and diseases from his property, as provided by RCW 15.09.080; (4) Control and prevent the spread of horticultural pests and diseases on any property within the county as provided by RCW 15.09.080, and to charge the owner for the expense of such work in accordance with RCW 15.09.080 and 15.09.090; (5) Employ such persons and purchase such goods and machinery as the county council may provide; (6) Provide education to the public regarding the infection, control, and prevention of horticultural pests and diseases; (7) Adopt, following a hearing, such rules and regulations as may be necessary for the administration of this chapter
- 2.28.060 Owner's duty to control pests and diseases.** Each owner of land containing any plant or plants shall perform or cause to be performed such acts as may be necessary to control and prevent the spread of horticultural pests and diseases, as defined under RCW 15.08.010 or as defined by the director of the department of agriculture. The word "owner" as used in this section shall mean the possessor or possessors of any form of legal or equitable title to land and entitlement to possession. For purposes of liability under this chapter, the owners of land shall be jointly and severally liable.
- 2.28.070 Right of entry--Search warrant.** Any authorized agent or employee of the county horticultural pest and disease board may enter upon any property after making two unsuccessful attempts on two separate days which include leaving door hangers to contact said owner for the purpose of administering this chapter. Subsequently the board shall have any power exercisable pursuant thereto, in accordance with RCW 15.09.070.
- 2.28.080 Failure to control horticultural pests and diseases--Remedies.** (1) Whenever the horticultural pest and disease control board finds that an owner of land has failed to control and prevent the spread of horticultural pests and diseases on his land, as is his duty under RCW 15.09.060, it shall provide such person with written notice, which notice shall identify the pests and diseases found to be present and shall order prompt control or disinfection action to be taken within a specified and reasonable time period. (2) If the person to whom the notice is directed fails to take action in accordance with this notice, then the board shall perform or cause to be performed such measures as are necessary to control

and prevent the spread of the pests and diseases on such property and the expense of this work shall be charged to such person. Any action that the board determines requires the destruction of infested plants, or application of non-organic sprays to a certified organic crop, absent the consent of the owner, shall be subject to the provisions of subsection (3) of this section. (3) In the event the owner of land fails to control and prevent the spread of horticultural pests and diseases as required by RCW 15.09.060, and the county horticultural pest and disease board determines that actions it has taken to control and prevent the spread of such pests or diseases has not been effective or the county horticultural pest and disease board determines that no reasonable measures other than removal of the plants or application of non-organic sprays to a certified organic crop will control and prevent the spread of such pests or diseases, the county horticultural pest and disease board may petition the superior court of the county in which the property is situated for an order directing the homeowner to show cause why the plants should not be removed or, in the case of organics, sprayed at the owner's expense and for an order authorizing removal or, in the case of organics, spraying of said infected plants. The petition procedure shall be in accordance with subsection (3) of RCW 15.09.080.

2.28.090 Hearing on liability of owner for costs or charges--Review. Any person, upon request and pursuant to the rules and regulations of the horticultural pest and disease board shall be entitled to a hearing before the board on any charge or cost for which such person is alleged to be liable under subsection (2) of RCW 15.09.080. Any determination or final action by the board shall be subject to judicial review as provided by RCW 15.09.090.

2.28.100 Payment of expenses and costs-Penalty-Collection. Any amount charged to the owner of land in accordance with the provisions of RCW 15.09.080 and 15.09.090 shall be paid by such owner within sixty days of the date in which he was billed for such amount. If payment is not made within such sixty day period, the amount of such charge, together with a ten percent penalty surcharge, shall, for purposes of collection, become a tax lien under RCW 84.60.010, as now or hereafter amended, and shall be promptly collected as such by the county treasurer: PROVIDED, That where good cause is shown the board may extend for an additional two months the time period during which payment shall be made.

2.28.110 Refund of charges paid. In regard to any charge made pursuant to RCW 15.09.080, if either the horticultural pest and disease board or the superior court on judicial review disallows such charge, then any amount paid on such charge, together with any interest or penalty, shall be promptly refunded by the county from the county's general fund or from any other county funds available. In addition, the county shall pay six percent simple annual interest on such amount refunded.

- 2.28.120** **Disposition of moneys collected.** Any moneys collected under this chapter shall be placed in the county general fund together with any taxes collected pursuant to the provisions of RCW 15.08.260, as now or hereafter amended.
- 2.28.130** **Operating moneys.** Sufficient operating moneys for the horticultural pest and disease board shall be provided for pursuant to the provisions of RCW 15.08.260 and 15.08.270, as now or hereafter amended.
- 2.28.140** **Abolishment of board.** Upon receipt of a petition signed by twenty-five landowners within the county or on its own motion, County Council may abolish the pest and disease board following a hearing and a finding that the purposes of this chapter would not be sufficiently served by the continued existence of such board.