

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 1998 - 254 A

CLEARANCES	Date	Date Received in Council Office	Agenda Date	Assigned To
Orig. Dept.:	7/22/98		7/28/98	Council
Division Head:				
Dept. Head:				
Prosecutor:				
Budget:				
Executive:				

SUBJECT:

Ordinance establishing WCC Chapter 16.28, Manure & Agricultural Nutrient Mgmt.

ATTACHMENTS

Ordinance

SUMMARY STATEMENT:

Related County Contract #:	Should the Clerk schedule a hearing? (Y/N)	Requested Date:
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Ordinance establishing Whatcom County Code 16.28, agricultural nutrient management.

RECOMMENDED MOTION (for final action):

COUNCIL ACTION TAKEN:

- 1: 1998 - 254 A 7/28/98: Introduced - Substitute ordinance introduced
- 8/11/98: Held in committee
- 9/15/98: Adopted Emergency Ordinance 6-1, Brown opposed
- Ord. #98-056

Related File Numbers:

Ordinance or Resolution Number (this item only):

ORD. 98-056

1 Final manure4, 9/15/98

SPONSORED BY: Natural Resources Committee
PROPOSED BY: Portage Bay Closure Response Team
INTRODUCED: 7/28/98

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6 **ORDINANCE NO. 98-056**
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8 **AN EMERGENCY ORDINANCE ESTABLISHING AGRICULTURAL NUTRIENT**
9 **MANAGEMENT PROVISIONS**

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12 **WHEREAS**, Whatcom County has been officially notified by the Washington State
13 Department of Health of the classification downgrade of certain commercial shellfish beds in
14 Portage Bay and Drayton Harbor due to fecal coliform bacteria levels exceeding National
15 Shellfish Sanitation Program standards; and,

16 **WHEREAS**, improper dairy waste management was identified as the largest potential
17 contributor of fecal coliform pollution in the Nooksack River watershed and a significant source
18 of fecal coliform pollution in the Drayton Harbor watershed by the Washington State
19 Department of Health; and,

20 **WHEREAS**, both the Portage Bay Shellfish Closure Response Team and Drayton
21 Harbor Shellfish Protection District Advisory Committee considered the best available science in
22 the development of the closure response strategies, and recommended the prohibition of manure
23 applications at certain times of the year and proximate to waterways; and,

24 **WHEREAS**, excess and untimely applications of manure increase nitrate contamination
25 of groundwater; and,

26 **WHEREAS**, the County Council Natural Resources Committee held a public meeting on
27 July 21, 1998 and the County Council held a public hearing on August 11, 1998 on the
28 recommendations and considered further testimony; and

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

2 **FINDINGS:**

- 3 1. Data from the Washington State Department of Ecology's Total Maximum Daily Load
4 (TMDL) study of the Nooksack River watershed shows high levels of fecal coliform
5 bacteria in the river and most of its tributaries throughout the year, with the highest levels
6 of the year in the months of November and March.
- 7 2. Best available science shows that fall, winter, and early spring surface applications of
8 manure to land with little vegetative cover or, regardless of time, proximate to waterways
9 can present a significant risk of discharge of bacteria, nutrients and organic matter
10 through storm water.
- 11 3. Historically, manure is applied in Whatcom County post-harvest to corn ground and to
12 bare ground in the fall and winter. Applications during these times cannot be justified as
13 agronomic practices. They are, instead, waste disposal practices that should be
14 prohibited. There are currently about 15,000 acres planted to corn in Whatcom County.
- 15 4. Data from recent groundwater studies shows elevated levels of nitrate and nitrite-N in
16 many of the Whatcom County's drinking water wells.
- 17 5. The best available science also shows that fall, winter, and early spring sub-surface
18 applications of manure can present a significant risk of leaching of nitrate and nitrite-N
19 into groundwater.
- 20 6. Both elevated levels of nitrate nitrogen and fecal coliform bacteria in water are a human
21 health concern.
- 22 7. Spreading of manure to land adjacent to streams, rivers, ponds, and lakes is an activity
23 already regulated by the Whatcom County Critical Areas Ordinance (WCC 16.16). To

1 achieve the objective of reducing fecal coliform in County waterways, drainage ditches
2 that empty into these critical areas must be subject to similar buffer requirements.

3 8. The Whatcom Conservation District has a history of successful cooperation with county
4 farmers to implement conservation plans that foster the application of nutrients in a
5 manner that protects surface and groundwater quality.

6 9. This ordinance must be adopted immediately to prevent an imminent threat to public
7 health due to the onset of the fall season and its accompanying rainfall.

8 10. On September 15, 1998, the Whatcom County SEPA Official determined that, pursuant
9 to WAC 197-11-880, the adoption of this emergency ordinance is exempted from a SEPA
10 threshold determination at this time and that no significant adverse environmental
11 impacts are likely.

12 **CONCLUSION:**


13 This ordinance will provide additional needed protection of the surface and groundwater
14 resources of Whatcom County and the Whatcom County Council declares that an emergency
15 ordinance is necessary for the immediate preservation of the public health.

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17 **NOW, THEREFORE, BE IT ORDAINED** that the Whatcom County Council hereby
18 adopts the Agricultural Nutrient Management provisions as outlined in Exhibit A to this
19 ordinance on an emergency basis for 60 days from adoption of this ordinance or until the
20 effective date of an ordinance adopting these provisions on a permanent basis.

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22 Adopted this 15 day of September, 1998

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25 WHATCOM COUNTY COUNCIL

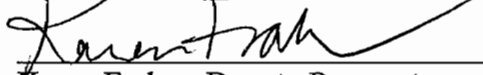
1 ATTEST:

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5 Dana Brown-Davis, Clerk of the Council

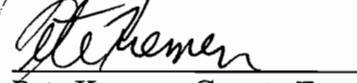
WHATCOM COUNTY, WASHINGTON


Robert Imhof, Council Chair

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9 APPROVED AS TO FORM:

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12 Karen Frakes, Deputy Prosecutor

APPROVED DENIED


Pete Kremen, County Executive

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EXHIBIT A

Section:

16.28.010	Application - Buffers
16.28.020	Application – Liquid Manure
16.28.030	Definitions
16.28.040	Annual Review
16.28.050	Penalties and Enforcement
16.28.060	Adjudication of Invalidity

16.28.10 **Application – Buffers.** Unless it is pursuant to a management plan approved by the Whatcom Conservation District, the spreading of manure within 50 feet of drainage ditches leading to rivers and streams is prohibited.

16.28.20 **Application – Liquid Manure.** Unless it is pursuant to a management plan approved by the Whatcom Conservation District, the spreading of liquid manure, by any means, to either corn ground or bare ground during the non-application period is prohibited.

16.28.30 **Definitions.** For the purpose of this chapter:

- A. “Bare ground” means land upon which a vigorously growing crop has not been established immediately prior to the non-application period.
- B. “Corn ground” means land upon which a crop of corn has been grown immediately prior to the non-application period.
- C. “Drainage ditch” means an artificially created watercourse constructed to convey surface or groundwater.
- D. “Management plan” means a plan containing:
 - 1. Results of soil and manure testing,
 - 2. An analysis demonstrating that the proposed manure application is necessary to meet the needs of the growing crop, and a recommendation as to the amount of manure applied;
 - 3. A description of the proposed application site, including; soil type, percent slope, drainage class, flood hazard, erosion hazard, seasonal water table depth, leaching and run-off potential;
 - 4. Features designed to prevent the transportation of manure by natural processes away from the site.
- E. “Non-application period” means September 1 through March 15 of the following calendar year. For the year of 1998 only, the non-application period will begin October 1. Any liquid manure applied prior to this date should be worked in, with a cover crop planted by October 1 to help minimize run-off and nitrate contamination of ground water. Should favorable climatic conditions exist, application may begin earlier in the spring than the dates established in this ordinance, following approval from the Whatcom

Conservation District Board based on T Sum 200 or best available science. Soil conditions must also be considered when deciding when to apply nitrogen.

- F. "Liquid manure" means a suspension of livestock manure in water in which the concentration of manure solids is low enough to maintain a free flowing fluid. Liquid manure also includes slurry which is a mixture of livestock manure, bedding and waste feed in water. Liquid manure and slurry is typically applied to fields by pumping through irrigation equipment or by hauling and spreading with a tank wagon. The solids content of liquid manure or slurry is usually less than 10 percent. A practical definition of liquid manure includes any livestock manure mixture that can be pumped through conventional liquid manure handling equipment.

- G. T Sum 200 is a method used to determine the optimum time for applying the first application of nitrogen to grassland in the spring. This method uses the mean daily air temperature from January 1st to the date when the accumulated number reaches 200. At this point the soil is generally considered to be warm enough to begin to use additional nitrogen.

16.28.40 Annual Review. On at least an annual basis, the Portage Bay Shellfish Protection District Advisory Committee shall review bacterial water quality data collected by at least the North West Indian College, and Washington State Departments of Ecology and Health for the Shellfish Districts, to monitor the effectiveness of this ordinance. The bacterial water quality data collected for the Shellfish Protection Districts shall be public and, specifically, made available to the Whatcom County Dairy Producer Advisory Committee.

16.28.50 Penalties and Enforcement. Violations of the provisions of this section shall be enforced by the Whatcom County Planning and Development Department pursuant to Section 16.16.270 of the Whatcom County Critical Areas Ordinance (WCC 16.16)

16.28.60 Adjudication of Invalidity. Adjudication of Invalidity of any of these articles, 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.