

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 1999 - 329

CLEARANCES	Date	Date Received in Council Office	Agenda Date	Assigned To
Orig. Dept.: Planning & Develop	9/14/99	<b>RECEIVED</b>  <b>SEP 14 1999</b>  <b>WHATCOM COUNTY COUNCIL</b>	9/21/99	Introduction
Division Head:			9/28/99	P&D COMM.
Dept. Head:			10/12/99	COUNCIL
Prosecutor:			10/26/99	PUBLIC HEARING
Budget:				
Executive:				

**SUBJECT:**

Ordinance amending Whatcom County Code 20 regarding Harvest Activity

**ATTACHMENTS**

**SUMMARY STATEMENT:**

Related County Contract #:	Should the Clerk schedule a hearing? (Y/N) <input checked="" type="radio"/> N	Requested Date:
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Ordinance amending Whatcom County Code Title 20 regarding harvest activity in RF/CF and conflicts with landowners

*Planning Number 04-98:ZT*

**RECOMMENDED MOTION (for final action):**

**COUNCIL ACTION TAKEN:**

- 1999 - 329 9/21/99: Introduced
- 9/28/99: Discussed - schedule Public Hearing for Oct. 26
- 10/12/99: Not discussed
- 10/26/99: Amended and adopted 7-0, Ord. #99-058

Related File Numbers:

Ordinance or Resolution Number (this item only):

*ORD. # 99-058*

SPONSORED BY : Planning  
PROPOSED BY: Planning  
INTRODUCTION DATE: 9/21/99

ORDINANCE NO. 99-058

**ADOPTING AMENDMENTS TO THE WHATCOM COUNTY  
TITLE 20 ZONING TEXT REGARDING HARVEST ACTIVITY IN FORESTRY  
ZONES AND CONFLICTS WITH ADJACENT LANDOWNERS**

**WHEREAS**, Whatcom County Code, Title 20, Chapter 90 provides direction for docketing zoning map and text amendments and such docket was initiated and processed for 1998; and

**WHEREAS**, The Deputy SEPA Official for Whatcom County issued a determination of non-significance on November 4, 1998; and

**WHEREAS**, Pursuant to RCW 36.70.590, legal notice was published in the Bellingham Herald on October 31, 1998, November 26, 1998, January 4, 1999, January 14, 1999, February 11, 1999, February 27, 1999, March 11, 1999, March 25, 1999, April 11, 1999; and

**WHEREAS**, The Planning Commission held public hearings on the proposed amendments on November 12, 1998, December 10, 1998, January 14, 1999, January 28, 1999, February 11, 1999, February 25, 1999, March 11, 1999, March 25, 1999, and April 8, 1999 and considered all testimony; and

**WHEREAS**, The Planning Commission held a work session on April 22, 1999 to consider all the amendments concurrently, as required by WCC 20.90.070; and

**WHEREAS**, The Planning Commission has evaluated the merits of each amendment in relationship to the County Wide Planning Policies and the goals, policies and objectives of the Comprehensive Plan, as required by WCC 20.90.070; and

**WHEREAS**, The County Council decided to split the batch of proposed zoning map and text amendments into separate ordinances to allow adoption of some of the proposed amendments in advance of the other proposed amendments; and

**WHEREAS**, The County Council has considered the Planning Commission's Findings of Fact, Reasons for Action, and Recommendations for all the amendments, as required by WCC20.10.110, and

**WHEREAS**, The County Council finds that the zoning text amendments, conform to the Growth Management Act and are consistent with and implement the Comprehensive Plan; and

**WHEREAS**, the County Council finds the amendments in the best interest of the public, safety, and welfare, based on the following findings and conclusions:

## **FINDINGS**

### **Findings of Fact:**

1. Public notice was published in the Bellingham Herald on Thursday, February 11, 1999.
2. A Determination of Non-Significance was issued by the Deputy SEPA Official on November 4, 1998.
3. On June 2, 1998, the County Council initiated review of existing Forestry related policies and regulations to determine whether additional policy language could be developed to further reduce potential conflicts between forestry and non-forestry land uses.
4. The Whatcom County Comprehensive Plan, Chapter 8 - Resource Lands provide direction regarding forestry land use and the reduction of conflicts with non-forestry land uses.
5. Whatcom County Code Titles 14 and 20 contain significant references affirming the Right to Practice Forestry; requiring signature and recordation of Forestry disclosure statements; and requiring increased setbacks upon non-forestry related parcels that are located adjacent to Forestry Zone Districts.
6. The proposed text amendments to section 20.80.271 would be consistent with the existing language under section 20.80.271(1) and (2) which establishes a 100 foot setback for parcels adjacent to Forestry Zone Districts within the UR and RR zones.
7. Pursuant to RCW 76.09.240(4), the County does not have the authority to establish land use regulations within State regulated Forestry Districts, other than Class IV Conversions.

## **CONCLUSION**

Amendments to the Official Whatcom County Zoning Ordinance should be adopted as set forth in the Planning Commission's Findings of Fact, Reasons for Action, and Recommendations.

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

Section 1. The Official Whatcom County Zoning Ordinance text (Title 20) is hereby amended as shown in the attached Exhibit 1.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of the 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.

ADOPTED this 26 day of October, 1999

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

ATTEST:



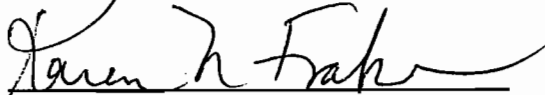
Dana Brown-Davis, Council Clerk



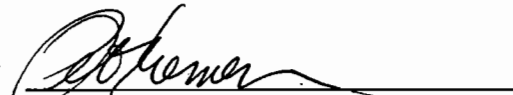
Marlene Dawson, Chairperson

APPROVED as to form:

Approved     Denied



Karen H. Fraker  
Civil Deputy Prosecutor



Pete Kremen, Executive

Date: 11-22-99

## EXHIBIT 1

- 1) Sections 20.20.651, 20.22.661, 20.24.651, 20.32.651, 20.34.651, 20.36.651 and 20.42.651 are hereby amended as follows:

### **20.XX.6X1 Plat language for proposed subdivisions.**

When a proposed subdivision, binding site plan, short subdivision or exempt land division will be located adjacent to or across a right-of-way from an existing Forestry District, the developer and any subsequent purchasers or successors in interest shall agree to refrain from any legal action to restrain or collect damages from the owners of such adjacent properties, or from Whatcom County, arising out of any reasonable and lawful activity on said forestry lands which occurs in the normal course of their established use. The agreement shall appear as a covenant or deed restriction upon the plat, tract or instrument of conveyance and shall run with the land. ~~Said covenant or deed restriction may be removed by submission to and approval by the Whatcom County hearing examiner, of a petition representing a majority of the land owned by property owners within 300 feet of the plat boundary. However, the hearing examiner shall remove the restriction only upon finding that the risk of liability to Whatcom County or the previously existing forestry uses will not be increased thereby.~~

- 2) A new section, 20.61.709- Plat language for proposed subdivisions, is hereby added to the Whatcom County Code as follows:

### **20.61.709 Plat language for proposed subdivisions.**

When a proposed subdivision, binding site plan, short subdivision or exempt land division will be located adjacent to or across a right-of-way from an existing Forestry District, the developer and any subsequent purchasers or successors in interest shall agree to refrain from any legal action to restrain or collect damages from the owners of such adjacent properties, or from Whatcom County, arising out of any reasonable and lawful activity on said forestry lands which occurs in the normal course of their established use. The agreement shall appear as a covenant or deed restriction upon the plat, tract or instrument of conveyance and shall run with the land.

- 3) Section 20.80.271 of the Whatcom County Code is hereby amended as follows:

### **20.80.270 Residential Districts.**

- (1) Urban Residential District: Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels which are less than 20,000 square feet in a subdivision approved prior to January 1, 1987, and whose owners have filed an agreement with the county auditor as specified in WCC 20.20.651 shall be subject to the standard setback in WCC 20.80.210.
- (2) Residential Rural District: Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.32.651 shall be subject to the standard setback in WCC 20.80.210.

(3) Residential Rural-Island District: Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels whose

owners have filed an agreement with the county auditor as specified in WCC 20.34.651 shall be subject to the standard setback in WCC 20.80.210.

**4) Section 20.80.283 of the Whatcom County Code is hereby amended as follows:**

**20.80.283 Forestry District.**

(1) Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

(2) Where a parcel, created pursuant to the clustering provision (WCC 20.42.300) or the planned unit development provision (Chapter 20.85 WCC) or when a permitted residence (WCC 20.42.056), adjoins an existing parcel of 20 acres or more in size or a parcel that is being cultivated for commercial forestry production, a minimum building setback of 100 feet shall be established from the common property line.

(3) For parcels of less than five nominal acres, unless the provisions of WCC 20.80.283(2) above are applicable, ~~a minimum five-foot side yard and a minimum five-foot rear yard setback~~ the zoning setback established by the zoning district shall be observed.