

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 1999 - 286 A

CLEARANCES		Date	Date Received in Council Office	Agenda Date	Assigned To
Orig. Dept.:	County Council	11/22/1999	RECEIVED NOV 22 1999 WHATCOM COUNTY COUNCIL	11/23/1999	Introduction
Division Head:					
Dept. Head:					
Prosecutor:					
Budget:					
Executive:					

SUBJECT:

Ord. amending Title 20 - Water Resource Protection Overlay/Stormwater Regs.

ATTACHMENTS

SUMMARY STATEMENT:

Related County Contract #:	Should the Clerk schedule a hearing? (Y/N Y) Requested Date: 12/7/1999
----------------------------	--

Adopting amendments to the Whatcom County Title 20 Zoning to add a new chapter 20.71 - Water Resource Protection Overlay Zone and amend other sections pertaining to land clearing and stormwater regulations

RECOMMENDED MOTION (for final action):

COUNCIL ACTION TAKEN:

1999 - 286 A 11/23/99: Introduced
12/7/99: Amended and adopted 6-1, Brown opposed, Ord. #99-086

Related File Numbers:

Ordinance or Resolution Number (this item only):

ORD. #99-086

SPONSORED BY : Consent
PROPOSED BY: Council
INTRODUCTION DATE: 11/23/99

ORDINANCE NO. 99-086

**ADOPTING AMENDMENTS TO THE WHATCOM COUNTY
TITLE 20 ZONING TO ADD A NEW CHAPTER 20.71 WATER RESOURCE
PROTECTION OVERLAY ZONE AND AMEND OTHER SECTIONS
PERTAINING TO LAND CLEARING AND STORMWATER REGULATIONS**

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 wishes to consider wording changes to the Planning Commission recommendation, which requires an additional public hearing; and

WHEREAS, The County Council finds that the zoning text amendments, as revised, 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

The Whatcom County Council adopts the Planning Commission's findings relating to the Zoning text amendments as set forth in their Findings of Fact, Reasons for Action, and Recommendations, which are attached as Exhibit 1.

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 2.

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.

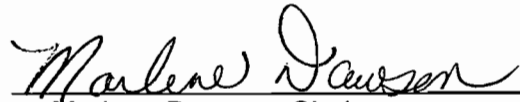
ADOPTED this 7 day of December, 1999

ATTEST:



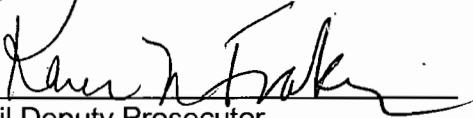
Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

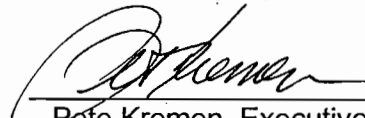


Marlene Dawson, Chairperson

APPROVED as to form:


Civil Deputy Prosecutor

Approved Denied


Pete Kremen, Executive

Date: 12-20-99

EXHIBIT 1

File # 61-98:ZT - Lake Whatcom Watershed Development Regulations

Applicant: Initiated by Whatcom County Council

Description of Proposal: To amend the Official Whatcom County Code, Title 20, to establish a new Chapter 20.71 Water Resource Protection Overlay Zone, to amend Chapter 20.80, Land Clearing, and to consider public input regarding additional regulatory revisions to reduce potential water quality impacts from development or uses within the Lake Whatcom Watershed.

Findings of Fact:

Watershed Protection Overlay District

1. Whatcom County Comprehensive Plan Goal 2S6 is to: "Designate all areas within Bellingham's Urban Growth Area that are also located within the Lake Whatcom Watershed as a Resource Protection/Urban Growth Area."
2. A number of permitted and conditional uses allowed in the zoning districts within the Lake Whatcom Watershed could impact water quality if not properly designed and operated.
3. Standards for roads, parking areas, building setbacks, lot coverage and open space which apply to other areas of the county could result in impervious surfaces which exceed standards recommended for sensitive watersheds.
4. Additional standards and review for certain types of development in the Lake Whatcom watershed is necessary to reduce water quality impacts from new development.
5. The development standards proposed in the Water Resource Protection Overlay District, attached as Exhibit A, are likely to protect water quality by reducing potential sources of contamination and impervious surfaces associated with new development in the watershed.

Clearing Code Revisions

1. Land clearing activities can significantly affect water quality, basin hydrology, stream channel morphology and habitat quality/aquatic ecology by introducing erosion and sedimentation from construction sites to receiving water bodies.
2. Erosion and sedimentation are of concern for a number of reasons including their impacts on beneficial uses such as fisheries and drinking water.
3. One of the mechanisms by which drinking water supplies can be affected is through the increased transport of nutrients such as phosphorus associated with the sediment.
4. Phosphorus contributes to lake productivity, and through decomposition of organic materials, added phosphorus contributes to low dissolved oxygen concentrations in certain areas/times.
5. Ecology has proposed listing Lake Whatcom as an "impaired water body" on the 303(d) list, under the Clean Water Act due to low dissolved oxygen concentrations.

6. Results of such a listing are uncertain but may significantly affect future development in the watershed.
7. Increased lake productivity can also lead to increased water treatment costs and public health concerns.
8. The increased thresholds for review and inspection of erosion controls associated with clearing activities, proposed in Exhibit C, is likely to result in decreased erosion, sedimentation and phosphorus in the stormwater which drains to Lake Whatcom.

Planning Commission Recommendation:

Planning Commission recommends approval of the following text amendment:

Ayes:7 Nays:0 Absent:2

EXHIBIT 2

Revisions to File #61-98 Water Resource Protection Overlay Zone

(1) A new Chapter 20.71 is hereby added as follows:

Chapter 20.71
WATER RESOURCE PROTECTION OVERLAY DISTRICT

Sections:

<u>20.71.010</u>	<u>Purpose.</u>
<u>20.71.020</u>	<u>Application.</u>
<u>20.71.022</u>	<u>Area and applicability.</u>
<u>20.71.050</u>	<u>Permitted uses.</u>
<u>20.71.100</u>	<u>Accessory uses.</u>
<u>20.71.150</u>	<u>Conditional uses.</u>
<u>20.71.200</u>	<u>Prohibited uses.</u>
<u>20.71.250</u>	<u>Subdivision requirements.</u>
<u>20.71.300</u>	<u>Open space and impervious surfaces</u>
<u>20.71.400</u>	<u>Building setbacks/buffer areas.</u>
<u>20.71.600</u>	<u>Development criteria.</u>
<u>20.71.601</u>	<u>Parking space dimensions.</u>
<u>20.71.602</u>	<u>Parking requirements.</u>
<u>20.71.603</u>	<u>Use of alternative surfacing methods.</u>
<u>20.71.604</u>	<u>Vehicular access.</u>
<u>20.71.700</u>	<u>Roads, curbs, gutters and sidewalks.</u>

20.71.010 Purpose.

The Water Resource Protection Overlay District is an overlay zone which is intended to impose additional controls to preserve and protect unique and important water resources within Whatcom County. This district is designed to protect the unique character of the Lake Whatcom watershed while creating opportunities not available in the underlying zone districts to address the needs of the Watershed.

20.71.020 Application.

20.71.021 Area and applicability.

1. The Water Resource Protection Overlay District is an overlay zone which covers the entire geographic area of the Lake Whatcom Watershed within Whatcom County jurisdiction.
2. This District could be expanded to include other areas through the annual zoning text amendment process.
3. Lake Whatcom has also been designated a Stormwater Special District under the stormwater regulations contained in WCC 20.80.634 and a Water Resource Special Management Area under the clearing regulations contained in WCC 20.80.730.
4. If the provisions of this chapter conflict with the provisions of the Shoreline Management Program or the Critical Areas Ordinance, or

the provisions of the underlying zoning district, then the most restrictive shall apply, with the exception of the setback provisions established in section 20.71.401.

20.71.050 Permitted uses.

All permitted uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter.

.051 Agriculture including animal husbandry, horticulture, viticulture, floriculture, and the cultivation of crops, provided uses which involve five or more animal units or cultivation of two or more acres shall be subject to completion of a conservation plan in conformance with Appendix A, Conservation Program on Agricultural Lands, of the Whatcom County Critical Areas Ordinance. Within six months after the adoption of this chapter, all new and preexisting agricultural uses, other than structures, with two to five animal units shall comply with the setbacks established in the Critical Area Ordinance unless they have completed and implemented a Conservation Plan which provides for a smaller buffer.

.052 Private non-commercial greenhouses less than 250 square feet.

20.71.100 Accessory uses.

All accessory uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter.

20.71.150 Conditional uses.

All conditional uses in the underlying zone districts shall remain conditional uses unless expressly prohibited, made conditional, or further conditioned by this chapter.

.151 On-site storage facilities for hazardous wastes associated with outright permitted uses or approved conditional uses, other than cottage industries as defined in 20.71.216, subject to the most current siting criteria under Chapter 173-303 WAC within the Rural, Rural Forestry, Commercial Forestry, Neighborhood Commercial and Resort Commercial zone districts only.

.152 In the Rural, Rural Forestry and Commercial Forestry zone districts only, transitory solid waste facilities for storage or collection, including: recycle centers, drop boxes, and transfer stations for household materials excluding large items such as automobiles or major appliances; and including the type of facilities operated by neighborhood or public service organizations. Transfer stations shall be subject to the provisions established under WCC 20.42.160.

.153 Animal hospitals and accessory kennels and stables, or commercial kennels and stables intended for the boarding or training of domestic animals located in the Rural zone, provided:

1. No building or animal enclosures other than pasture fencing shall be located closer than 50 feet from the external property lines;

2. Such facilities must provide a waste disposal program that demonstrates that animal waste will not impact surface or ground water; and
3. Such facilities which accommodate five or more animal units shall be subject to completion of a conservation plan in conformance with Appendix A, Conservation Program on Agricultural Lands, of the Whatcom County Critical Areas Ordinance. Within six months after the adoption of this chapter, preexisting facilities with more than two, but less than five, animal units shall comply with the setbacks established in the Critical Area Ordinance unless they have completed and implemented a Conservation Plan which provides for a smaller buffer.
4. Such facilities shall be operated at all times in a manner specifically designed to prevent the use of the facilities from becoming a nuisance, either public or private; and the hearing examiner shall require of the applicant a detailed program to minimize any potential watershed impacts or any other potential adverse impacts; said program is to be recorded as one of the conditions attached to the permit.

.154 Retail or wholesale plant nurseries or greenhouses for storage, propagation and culture of plants, provided:

1. Greenhouses shall not be larger than 1,000 square feet.
2. Greenhouses and cultivated ground shall not be located within 250 feet of Lake Whatcom or streams subject to the Shoreline Management Act, 200 feet from fish bearing streams, or 150 feet from other streams, and their tributaries, which flow into Lake Whatcom.
3. A monitoring program has been established to ensure that chemical and pesticide quantities in stormwater run-off do not exceed state water quality standards. Complete control of drainage from operation shall be in effect. Such run-off will be tested bi-monthly for pollutants and there will be quarterly unannounced spot checks by a licensed water quality testing agency. All requirements will be met at owners expense.

20.71.200 Prohibited uses.

In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited:

- .201 Dry cleaning establishments.
- .202 Gas stations, service stations, automotive repair garages and automotive wrecking yards.
- .203 Sod farming.
- .204 Aquaculture and mariculture projects, provided that fish hatcheries and private non-commercial fish ponds approved by the Department of Fish and Wildlife are exempted.
- .205 The operation of fur farms.
- .206 Confinement feeding operations.
- .207 Asphalt and concrete batch plants.
- .208 Gravel bar scalping projects within the jurisdiction of the Shoreline Management Program.
- .209 Utilization of sewage sludge on land.

- .210 On-site treatment facilities for hazardous wastes.
- .211 Commercial composting and mulching facilities.
- .212 Solid waste disposal or treatment facilities and sites of a permanent nature, including landfills and incinerators.
- .213 Golf courses
- .214 Cemeteries
- .215 Cottage Industries which would require on-site hazardous waste storage facilities.

20.71.300 Open space and impervious surfaces.

.301 Open space requirements shall be as follows:

1. For uses in the NC zone, at least 25% of the parcel shall be reserved as open space.
2. For uses in the RC zone, at least 40% of the parcel shall be reserved as open space.
3. Parking areas, driveways, patios and outdoor storage and loading areas that are constructed of impervious surfaces shall not be considered open space; nor shall tidelands or shorelands unless specifically authorized under Title 23.
4. Open space areas shall be maintained in natural vegetation or landscaped per 20.80.325.

.302 Impervious surface requirements shall be as follows:

1. For uses in the UR, URM, and UR-MX zone districts, at least 50% of the parcel shall be kept free of structures and impervious surfaces, except for in the UR zone, where on lots larger than 10,000 square feet, 60% of the lot shall be kept free of impervious surfaces.
2. For uses in the RR zone district, at least 80% of the parcel shall be kept free of structures and impervious surfaces.
3. For uses in the R zone district, at least 90% of the parcel shall be kept free of structures and impervious surfaces.
4. Not more than a total of 35% of the required pervious surface area for a parcel may be provided in patios, paths, driveways, parking areas, outdoor storage, loading areas, etc. which utilize alternative surfacing options (ie: paving blocks, plastic matting, gravel, bark, and similar materials).

.303 For cluster subdivisions approved after December 7, 1999, that portion of the reserve tract which is kept in pervious open space may be counted toward pervious surface area requirements for the lots in the subdivision on a prorated basis.

20.71.350 Cluster subdivisions.

Cluster subdivisions shall be required for all five lot or greater land divisions.

20.71.400 Building setback/buffer areas.

.401 Setbacks for all properties within the overlay district shall be as follows: Class I and Class II roads shall have a setback of 30 ft.; and Class III, IV and V roads shall have a setback of 20 ft. for all zones except the URMX zone which shall have a setback of 10 feet provided that the road right-of-way meets the minimum standard for road right-of-ways pursuant to the Whatcom County Development Standards.

.402 Roof overhangs or other overhanging architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend three feet into the front yard setback, however in no case shall they extend more than one-half the depth of the front yard setback.

20.71.600 Development criteria.

20.71.601 Parking space dimensions.

A standard parking space shall have the rectangular dimensions of 10 feet in width and 20 feet in length; provided, however, that for any parking area of 6 or more spaces, 50 percent of all spaces may have the rectangular dimensions of 8 feet in width and 15 feet in length; provided that these spaces are marked for use by compact automobiles. Except in single family residential areas, all dimensions shall be exclusive of driveways, aisles and other circulation areas required under 20.80.560 and .570.

20.71.602 Parking requirements.

Parking shall conform to the requirements of WCC 20.80.500 unless otherwise specified in this section.

A. Minimum parking requirements may be lessened if any of the following methods are utilized:

1. A shared parking agreement has been filed with the Zoning Administrator establishing a shared parking lot for land uses with noncompeting hours of operation, or for multi-tenant retail and commercial facilities, provided the parking lot is not located further than 700 feet from any of the uses it is intended to serve.
 - a. Required parking in shared facilities shall be based on the land use with the highest parking demand.
 - b. Mixed use developments with similar operating hours may be required to submit a parking demand study to determine if parking can be combined.
2. A reduction of up to 20% may be realized if an establishment is located within 1,000 feet of any regularly scheduled bus stop.
3. The zoning administrator determines that a reduced requirement will reduce overall impervious surfaces while maintaining consistency with this chapter.

20.71.603 Use of alternative surfacing methods.

Use of alternative surfaces including: pervious concrete, porous asphalt, paving blocks, plastic matting, brick, natural stone, cobbles, gravel, bark or wood mulch, turf block, and similar approved materials is required for fringe or overflow parking areas; emergency parking areas, easement service roads, and driveways in residential or

commercial zones unless site constraints make use of such materials detrimental to water quality. Use of pervious materials is encouraged for private roads, fire lanes, road shoulders bike paths, walkways, and patios. However, utilization of alternative surfacing methods in commercial or public facility areas shall be subject to review and approval by the Whatcom County Public Works Department, Fire Marshall or the County ADA Coordinator for compliance with other applicable regulations.

20.71.604 Vehicular access.

Driveways and curb cuts shall be minimized along all arterial and collector roads. Each existing lot shall be allowed only one driveway or curb cut; adjacent lots are encouraged to share access points. In new developments, lots or leased sites shall be oriented toward internal driveways, parking areas, or roads, with limited access to arterial or collector roads. Access points to arterials and collectors should not be closer than 400 feet apart except where physical constraints make closer access points more appropriate

20.71.700 Roads, curbs, gutters and sidewalks.

The intent of this section is to reduce impervious surfaces and stormwater runoff. Innovative street sections, which do not compromise the public safety, shall be encouraged in the watershed. Narrow streets and reduced sidewalk standards that satisfy pedestrian and vehicular circulation requirements may be implemented with the approval of the Whatcom County Public Works Department. Unless specifically required, roads shall not be wider than the minimum applicable standard. A rural road standard may be approved by the Whatcom County Public Works Department for urban density residential areas where the developer provides adequate off-street parking and pedestrian walkways. Use of shared parking facilities and pervious pedestrian walkways is encouraged.

(2) Chapter 20.80 of the Whatcom County Code is hereby amended as follows:

20.80.521 Drainage.

All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways. Off-site drainage improvements and maintenance easements shall be secured as necessary to prevent damage to downstream property and prevent degradation of water quality.

20.80.525 Location of parking spaces.

The following regulations shall govern the location and off-street parking spaces and areas:

(1) Parking spaces for all one and two-family dwellings shall be located on the same lot as the dwelling which they are intended to serve with no more than two parking spaces included within the front yard setback; unless otherwise approved by the zoning administrator. Use of shared parking spaces for overflow parking is encouraged.

(2) Parking spaces for commercial, industrial or institutional uses shall be located not more than 700 feet from the principal use. Parking lots further than 700 feet from the principal use may be approved by the zoning administrator.

(3) Parking space for apartments, dormitories or similar residential uses shall be located not more than 300 feet from the principal use.

(4) Parking spaces and locations established in new land subdivisions approved by Whatcom County prior to the enactment of this ~~ordinance resolution~~ shall be exempt from the requirement of approval by the zoning administrator.

(5) In Special Districts, parking locations and standards shall be established so as to minimize the overall impervious surface area of the proposed development.

20.80.632 ~~Small development impervious surface treatment~~ erosion and sedimentation controls.

(1) 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 WCC 20.80.633 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, and shall be subject to any other requirements specified for~~ Special Districts identified in section 20.80.634 (2):

(a) Individual detached single-family residences and duplexes.

(b) Creation or addition of less than 5,000 square feet of impervious surface area.

(2) Small Parcel Requirements.

(a) 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.

(b) Adjacent properties and surface waters 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.

(c) All stormwater quality and quantity controls shall be inspected and maintained on a regular basis. (Ord. 94-022, 1994).

20.80.633 ~~Large development impervious surface treatment~~ Stormwater Controls.

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 and water quality.~~ No building permit shall be issued until a drainage control plan is approved by the county engineer. (Ord. 94-022, 1994).

20.80.634 Stormwater Special districts.

(1) Where the Comprehensive Plan policies identify a specific area that requires higher standards for stormwater drainage facilities, a "Stormwater special district" shall be created by council action. Requirements for these areas shall be contained in section 20.80.635(6) and in the Whatcom County

Development Standards, Chapter 2, under the title, "~~Special Districts.~~" (Ord. 94-022, 1994).

(2) Whatcom County shall establish the following geographical areas as Stormwater special districts:

- (a) Drayton Harbor Watershed
- (b) Lake Whatcom Watershed.

20.80.635 Conformance required.

All development shall conform to the following requirements.

(1) 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 WCC 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. Protection of Groundwater 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.

(2) 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 predevelopment peak rates for the following storm events in compliance with best management practices:

1. The one year storm event when stormwater is discharged to a stream or to a drainage basin within 1,000 square feet of a stream or when the project is located in a Stormwater Special District.

~~4~~ 2. The two-year storm event;

~~2~~ 3. The 10-year storm event;

~~3~~ 4. The 25-year storm event;

~~4~~ 5. 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.

(3) Conveyance: Stormwater conveyance systems shall be required to convey storm flow and shall be sized to accommodate:

(a) Flow from 100-year storm events when public health and safety is put at risk by such events;

(b) Flow from 25-year storm events when property damage is probable from such events;

(c) 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.

(4) 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.

(5) 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. (Ord. 96-056 Att. A S 10, 1996; Ord. 94-022, 1994).

(6) Stormwater Special Districts: In areas designated as Stormwater Special Districts, permanent on-site stormwater quality and quantity facilities shall be required on all new construction or remodels increasing impervious surfaces by more than 120 square feet on lot sizes less than five acres, unless it can be demonstrated that off-site facilities would provide better treatment, or unless common detention and water quality facilities meeting current standards have been approved as part of a comprehensive stormwater management plan for that subdivision, or major site plan approval.

20.80.730 Land Clearing.

(1) Purpose. The purpose of this section is to avoid or minimize impacts of land clearing activity to adjacent and downstream public or private property and to protect receiving water bodies. The regulations contained in this section implement this goal by providing a reasonable standard for clearing land in Whatcom County. It is also the purpose of this section to establish a county review process for larger clearing projects to insure these regulations are met.

(2) Applicability. All land clearing shall be subject to the provisions of this section unless specifically exempted. No land clearing approval shall be issued by the

county prior to meeting the submittal requirements as set forth in the Whatcom County development standards and only when in compliance with federal, state and local regulations, including the critical areas ordinance and the Shorelines Management Program. Administrative provisions and technical standards for implementing these regulations shall be contained in the Whatcom County development standards.

(3) Exemptions. Any land clearing that is exclusively related to agriculture as defined in this title, forest practices other than a Class IV General regulated under Chapter 79.09 RCW, and surface mining regulated under Chapter 78.44 RCW, shall be exempt from these regulations.

(4) County Review Thresholds.

~~(a) The county will not review vegetation maintenance activities as defined by Whatcom County; provided exposed soils do not exceed 5,000 square feet on 30 percent slopes, one acre in Urban Zoning Districts and two acres in Rural Zoning Districts.~~

(b) The county shall require county review and approval of a land clearing activity when any of the following land clearing thresholds have been reached. If land clearing activity does not meet the threshold criteria, county review of the land clearing is not required. However, the owner must comply with the minimum requirements established in this chapter and in the Whatcom County Development Standards.

(a). Outside of Water Resource Special Management Areas:

(i) Five Thousand Square Foot Threshold on 30 Percent Slopes: The county shall review all proposed land clearing activities when an accumulative area of that are 5,000 square feet or greater when an accumulative area of land clearing is proposed to take place on slopes greater than 30 percent in gradient.

(ii) One Acre Threshold in Urban Zoning Districts: The county shall review all proposed land clearing activities that are one acre or greater when the activities are proposed to take place in Urban Zoning Districts and the slope is less than 30 percent in gradient.

(iii) Two Acre Threshold in Rural Zoning Districts: The county shall review all proposed land clearing activities that are two acres or greater when the activities are proposed to take place in Rural Zoning Districts and the slope is less than 30 percent in gradient.

(b) Within Water Resource Special Management Areas: County review and approval shall be required for land clearing activities within Water Resource Special Management Areas which exceed the following thresholds:

(1) Lake Whatcom Watershed: County review and approval shall be required for all land clearing activities associated with a fill and grading permit, building permit or other development proposal. Land clearing activities which are not associated with a development permit shall require County review if they are:

- a. 5,000 square feet or greater, or
- b. 2,000 square feet or greater on slopes which exceed 10% within 100 feet of the lake, or
- c. 2,000 square feet or greater on slopes which exceed 20% within 200 feet of the lake, or
- d. 2,000 square feet or greater on slopes which exceed 30% within 300 feet of the lake.

(2) Other Water Resource Special Management Areas:

- a. Five Thousand Square Foot Threshold on 20 Percent Slopes: The county shall review all proposed land clearing activities when an accumulative area of 5,000 square feet or greater of clearing is proposed to take place on slopes greater than 20 percent in gradient.
- b. Five Thousand Square Foot Threshold Within the Jurisdiction of the Shoreline Management Program: The county shall review all proposed land clearing activities that are 5,000 square feet or greater when any part of the activity is proposed to take place within the jurisdiction of the Whatcom County Shorelines Management Program.
- c. Five Thousand Square Foot Threshold Within 200 Feet of a stream subject to the Critical Area Ordinance. The county shall review all proposed land clearing activities that are 5,000 square feet or greater when any part of the activity is proposed to take place 200 feet or closer to a stream subject to the Critical Area Ordinance.
- d. Five Thousand Square Foot Threshold Within 50 Feet of a Type 5 Stream: The county shall review all proposed land clearing activities that are 5,000 square feet or greater when any part of the activity is proposed to take place 50 feet or closer to a Type 5 stream.
- e. Ten Thousand Square Foot Threshold in Urban Zoning Districts: The county shall review all proposed land clearing activities that are 10,000 square feet or greater when the activity is proposed to take place in Urban Zoning Districts and the slope is less than 20 percent in gradient.
- f. Two Acre Threshold in Rural Zoning Districts: The county shall review all proposed land clearing activities that are two acres or greater when the activity is proposed to take place in Rural Zoning Districts and the slope is less than 20 percent in gradient.

(5) Permit Approval and Inspection Process. If county review and approval is required to clear land, the county shall establish conditions for approval through one of the following permits:

(a) Project Permit. When land clearing is proposed as a part of a development proposal, the submittal requirements contained in the Whatcom County Development Standards, including temporary and permanent erosion control measures, must be submitted by the permit applicant and approved by the county as part of a project permit application prior to any clearing activity. Under this condition, a clearing permit shall not be required.

(b) Building Permit. Erosion control inspections shall be required as a condition of the building permit at the time of footing and inspection sign off.

~~(b)~~ (c) Clearing Permit. A clearing permit shall be required when land clearing is the only activity taking place and when no other project permit is required by the county for the proposal. Under this condition, submittal requirements contained in the Whatcom County Development Standards must be submitted with the clearing permit application.

(6) Land Clearing Requirements.

(a) Site Containment. Significant amounts of erosion, sediment, and other impacts resulting from any land clearing activity shall be contained on the site and may require temporary erosion/sedimentation control measures during and immediately

following clearing. All clearing activity requiring an approval must comply with the requirements of this chapter and those of the Whatcom County Development Standards.

(b) Hazards. Land clearing shall not result in significant off-site physical damage nor pose a significant danger or hazard to life or property off-site.

(c) Site-Specific Requirements. Additional site-specific requirements may be established after a site visit by the county. These requirements shall be based on specific site conditions and are limited to additional temporary erosion and sedimentation control and/or the mitigation of hazardous or potentially hazardous conditions that pose a threat off-site.

(d) Slash Removal in Urban Zoning Districts. In Urban Zoning Districts slash shall be either removed from the site, burned or chipped and spread across the site within one year of project completion.

(7) Forest Practices and Development Restrictions.

(a) Purpose. The purpose of this section is to facilitate the proper management of our forest resources while providing flexibility for the land owners who are not certain of their future plans. The landowner should have the option to log under a DNR forest practices permit without a county project permit while maintaining the option to convert the land at a later date. It is also the purpose of this section to allow the landowner to seek a waiver from a six-year moratorium when he/she repairs damage caused by the activity.

(b) Six-Year Moratorium. Any property that has been cleared under a Class I, II, III, and IV special forest practices permit shall not be eligible for any project permit for a period of six years from the issuing date of the forest practices permit. Provisions shall be made by the county to record such a condition.

(c) Waiver of Six-Year Moratorium. There are two conditions under which a moratorium waiver may be granted, as follows:

(i) A waiver may be granted by the county when a Conversion Option Harvest Plan is signed by the applicant and approved by the county;

(ii) A waiver may be granted by the county executive when the owner either brings the site into full compliance or agrees in writing to bring the site into full compliance with Whatcom County codes in existence at the time the FPA was approved. Written agreement must be accompanied by an assurance of performance.

(8) Conversion Option Harvest Plan (COHP).

(a) A Conversion Option Harvest Plan shall conform to the submission requirements of the Department of Natural Resources.

(b) A Conversion Option Harvest Plan must be reviewed and approved by the county prior to submittal to the Department of Natural Resources in order for a moratorium waiver on development to be granted by the county.

(c) A fee shall be established for the review of a Conversion Option Harvest Plan.

(d) The Conversion Option Harvest Plan shall remain in effect until a project permit has been approved by the county.

(9) Posting Authorization. Land clearing authorization must be posted by the permit applicant and clearly visible at the access to the site.

(10) Assurance of Performance. The county may require financial assurance for the proper performance and for the repair of site conditions; including but not limited to temporary erosion and sedimentation control facilities, vegetation restoration, and damage repair. See WCC 20.94.200 under General Enforcement and Penalties.

(11) Penalties. Violation of these requirements is punishable, pursuant to WCC 20.94.200.

(12) Review Fees. Review fees will be assessed as established by the Whatcom County Unified Fee Schedule.

(13) Water Resource Special Management Areas.

(a) Purpose. The purpose of a special management area in this chapter is to establish a more stringent standard for clearing activity in highly valued water resource areas, environmentally sensitive areas that exhibit clear evidence of degradation correlated to development, or areas where natural conditions are so unstable that clearing activity in the areas can result in hazardous conditions.

(b) a) Water Resource Special Management Area Designation. Whatcom County shall establish the following geographic areas as water resource special management areas:

(i) 1) Lake Whatcom Watershed;

(ii) 2) Drayton Harbor Watershed.

(c) b) Water Resource Special Management Area Requirements.

(i) County Review Thresholds. County review and approval of a clearing activity shall be required when any of the following thresholds have been reached:

(A) Five Thousand Square Foot Threshold on 20 Percent Slopes: The county will review all proposed land clearing activities that are 5,000 square feet or greater when an accumulative area of clearing is proposed to take place on slopes greater than 20 percent in gradient.

(B) Five Thousand Square Foot Threshold Within the Jurisdiction of the Shoreline Management Program: The county will review all proposed land clearing activities that are 5,000 square feet or greater when any part of the activity is proposed to take place within the jurisdiction of the Whatcom County Shoreline Management Program.

(C) Five Thousand Square Foot Threshold Within 200 Feet of a Type 1 through 4 Stream: The county will review all proposed land clearing activities that are 5,000 square feet or greater when any part of the activity is proposed to take place 200 feet or closer to a Type 1, 2, 3, or 4 stream.

(D) Five Thousand Square Foot Threshold Within 50 Feet of a Type 5 Stream: The county will review all proposed land clearing activities that are 5,000 square feet or greater when any part of the activity is proposed to take place 50 feet or closer to a Type 5 stream.

(E) Ten Thousand Square Foot Threshold in Urban Zoning Districts: The county will review all proposed land clearing activities that are 10,000 square feet or greater when the activity is proposed to take place in Urban Zoning Districts and the slope is under 20 percent in gradient.

(F) Two Acre Threshold in Rural Zoning Districts: The county shall review all proposed land clearing activities that are two acres or greater when the activity is proposed to take place in Rural Zoning Districts and the slope is less than 20 percent in gradient.

(ii) Within Water Resource Special Management Areas, clearing activity must conform to the following conditions:

(1) A vegetation plan must accompany the application and be approved by the Technical Administrator before clearing takes place. The vegetation plan may be created and drawn to simple standards by the permit applicant. A vegetation plan shall have the following components:

- Identification of all areas that will be undisturbed;
- Identification of areas to be revegetated;
- The inclusion of vegetation that contributes to soil stabilization;
- A planting schedule that indicates the time frame for revegetation.

~~(2A) Cover Protection: Unless otherwise approved by the county, d~~Disturbed areas must be provided with cover protection within ~~15 days~~ 2 days of the time of disturbance between October 1 and April 30, and within 7 days between May 1 and September 30. The Technical Advisor may approve an exemption to this requirement when the vegetation plan includes a disturbed area cover protection component. This plan component must specifically detail sediment erosion and stormwater runoff measures that ensure zero adverse impact to any area adjacent to the cleared area. The net result must be erosion and runoff standards equal to or improving the conditions that the above 2-day/7-day Cover Protection requirements would have created. ~~A vegetation plan must accompany the application and be approved by the Technical Administrator before clearing takes place. The vegetation plan may be created and drawn to simple standards by the permit applicant. A vegetation plan shall have the following components:~~

- ~~• Identification of all areas that will be undisturbed;~~
- ~~• Identification of areas to be revegetated;~~
- ~~• The inclusion of vegetation that contributes to soil stabilization;~~
- ~~• A planting schedule that indicates the time frame for revegetation.~~

(3) Phased Clearing: Land clearing activities will be phased to the extent possible in order to limit the amount of exposed soil that occurs at any one time.

~~(4B) Financial Assurance of Performance: The county may require financial assurance to insure proper performance prior to clearing a site and for the repair of degraded site conditions relating to the clearing activity when the proposal is located in a Special Management Area.~~

~~(5G) One Hundred Fifty Percent Violation Fines: When a violation occurs in an area designated as a Special Management Area within the context of this chapter, the total fine assessment shall be increased to 150 percent.~~

(3) Chapter 20.97 of the Whatcom County Code is hereby amended as follows:

20.97.017 Aquaculture

The farming or culture of food fish, shell fish, or other aquatic plants or animals in fresh or salt water areas and may require development such as fish hatcheries rearing pens, and structures and shellfish rafts, as well as use of natural spawning and rearing areas. The term aquaculture also includes activities related to either growing, handling, or harvesting of aquatic produce, such as fish and crab, including but not limited to, propagation, stocking, holding, nurturing, disease treatment, waste disposal, water use, development of habitat and structures.

20.97.018 Animal Enclosure

A barn, covered area, or pen intended to house or confine livestock or domestic pets, including kennels, dog runs, stables, corrals, feedlots and other areas where livestock or pets are held in a concentrated number. Pastures where crop or forage growth is sustained within the place of confinement are not considered animal enclosures.

20.97.054 Clearing Activity.

“Clearing activity” means clearing taking place on a single parcel of record or as part of a single project. Fill and grade activities regulated by the County are considered a “clearing activity”. A clearing activity will be considered to be complete once the site has been revegetated and stabilized.

20.97.186 Impervious surface.

“Impervious surface” means any material that prevents absorption of stormwater into the ground, including, but not limited to, structures, pavement, cement or concrete. Areas covered by wooden decks, gravel, lawn, landscaping or other alternative surfaces including, but not limited to, paving blocks or plastic matting which permit full or partial penetration of stormwater shall not be considered impervious.

20.97.191 Kennel.

“Kennel” means a commercial establishment in which 5 or more dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold for a fee or compensation.

20.97.275 Open space.

“Open space” means any parcel or area of land or water not covered by structures, hard surfacing, parking areas and other impervious surfaces except for pedestrian or bicycle pathways, or where otherwise provided by this title or other county ordinance and set aside, dedicated, for active or passive recreation, visual enjoyment or critical area development buffers, as established in the Whatcom County Critical Areas Ordinance developed limitations of unsuitable land areas. Tidelands or shorelands shall not be considered open space unless specifically authorized.