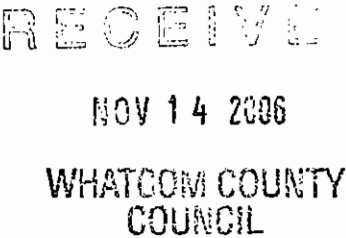


**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. 2006-441

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Elizabeth K. Olsen	<i>EKO</i>	10/17/06		11/21/06	Introduction
Division Head:				12/5/06	P&D/Council
Dept. Head: Hal H. Hart, A.I.C.P.	<i>HHH</i>	10/21/06			
Prosecutor: Royce Buckingham	<i>R.B.</i>	11-8-06			
Purchasing/Budget:					
Executive: Peter Kremen	<i>P.K.</i>	11/13/06			

**TITLE OF DOCUMENT:**  
*To amend the Official Whatcom County Zoning Ordinance, Title 20, by clarifying existing code language, eliminating conflict and duplication in the code language.*

**ATTACHMENTS:**  
 (1) Draft Ordinance with Attachment "A"  
 (2) Agency Report with Attachment "A"  
 (3) Planning Commission Public Hearing Minutes for September 21, 2006  
 (4) Staff Report for September 21, '06, with Attachment "A".

SEPA review required?	( X ) Yes	( ) NO	Should Clerk schedule a hearing?	( ) Yes	( X ) NO
SEPA review completed?	( X ) Yes	( ) NO	Requested Date:		

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** *(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)*

*Amending the Official Whatcom County Zoning Ordinance, Title 20, various chapters. The amendments are designed to clean up minor problems such as unnecessary duplications, conflict, lack of clarity and simple errors and generally to update Title 20. None of these changes will result in more stringent regulatory language.*

<p><b>COMMITTEE ACTION:</b></p> <p>12/5/2006: Amended and forwarded to Council for approval</p>	<p><b>COUNCIL ACTION:</b></p> <p>11/21/2006: Introduced                  12/5/2006: Council Amended &amp; Adopted 7-0 Ord. 2006-061</p>
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Related County Contract #:	Related File Numbers: ZON2005-00013	Ordinance or Resolution Number: Ord. 2006-061
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**Please Note:** *Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).*

SPONSORED BY: Consent

PROPOSED BY: PDS

INTRODUCTION DATE: 11/21/2006

ORDINANCE NO. 2006-061

**AN ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING CODE,  
TITLE 20, TO CLARIFY EXISTING CODE LANGUAGE**

**WHEREAS**, Regulatory reform is the act of clarifying existing code language by eliminating conflict, duplication and scrivener's errors in code language; and

**WHEREAS**, Whatcom County Planning and Development Department staff developed a list of changes to Title 20 to clarify existing code language; and

**WHEREAS**, pursuant to RCW 36.70.390, legal notice was published in the Bellingham Herald on Sunday, September 10, 2006; and

**WHEREAS**, the Whatcom County SEPA Official issued a Determination of Non-significance on November 2, 2006; and

**WHEREAS**, the Whatcom County Planning Commission held a public hearing and work session addressing the proposed amendments on Thursday, September 21, 2006, and considered all testimony; and

**WHEREAS**, the Whatcom County Planning Commission unanimously recommended approval of the amendments; and

**WHEREAS**, the Whatcom County Council held a public meeting on December 5, 2006, to consider these amendments and approved the Planning Commission's recommendations; and

**WHEREAS**, the Whatcom County Council found the amendments in the best interest of the public health, safety and welfare; and

**WHEREAS**, the County Council has adopted the following Findings of Fact and Conclusions:

**FINDINGS OF FACT AND REASONS FOR ACTION**

1. The Whatcom County Zoning Ordinance, Title 20, currently includes language that is duplicative and conflicting with other language.
2. A regulatory reform strategy has been developed that is designed to correct errors, improve readability and efficiency in the Land Use Title 20 of the County Code.
3. The first step in the regulatory reform strategy is the "code scrub", a general clean -up of Title 20 for clarity in code language.

4. The text changes will not result in more restrictive regulation.
5. There are no substantive policy issues involved in the proposed changes.
6. The minor text changes will clarify meaning by adding or deleting certain words in the text.
7. The text changes will make language consistent with most current state statutes.
8. The text changes will make language consistent with subsequently adopted county statutes.
9. The text changes will correct obvious flaws or errors in syntax that yield unreasonable conclusions or interpretations.

**CONCLUSION**

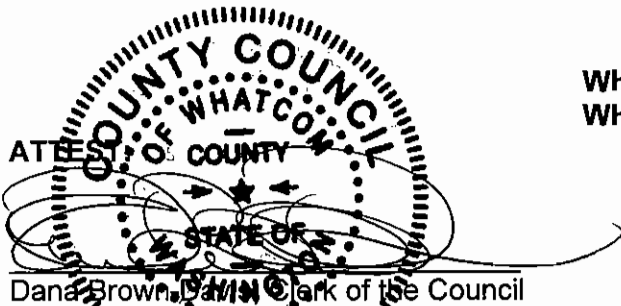
The proposed code scrub changes are a necessary first step in Whatcom County's initiative to improve readability and efficiency of the Whatcom County Code, Title 20.

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

Section 1. The Official Whatcom County Code, Title 20, be amended as indicated in Attachment "A", Regulatory Reform: Proposed Code Scrub Amendments.

Section 2. Adjudication of invalidity of any of the 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.

ADOPTED this 5 day of December, 2006.



ATTEST:  
 Dana Brown, Clerk of the Council

**WHATCOM COUNTY COUNCIL  
 WHATCOM COUNTY, WASHINGTON**

  
 Laurie Caskey Schreiber, Chairperson

APPROVED as to form:  
  
 Royce Buckingham, Civil Deputy Prosecutor

(  ) Approved ( ) Denied

  
 Pete Kremen, Executive

Date: 12-13-06

## CODE SCRUB AMENDMENTS

### “ATTACHMENT A”

1) **20.97.329 Public sewer system**

“Public sewer system” means, for land use planning purposes, a system intended to dispose of sewage meeting the definition of WAC 246-272-01001; ~~248-96-020(17)~~: a sewerage system which is owned or operated by a city, town, municipal corporation, county, ~~political subdivision of the state~~, or other approved ownership ~~with appropriate approvals~~ consisting of a collection system and necessary trunks, pumping facilities and a means of final treatment and disposal; and approved by or under permit from the Department of Ecology, the Department of Health, and/or a local health officer. (Ord. 86-29, 1986).

2) **20.80.345 Buffering Plantings**

~~Buffers are required when the use is adjacent to a residential or rural zone or another use of substantially different character where there is a demonstrable conflict in use. the proposed use is in a commercial or industrial zone and is directly adjacent to and shares a common boundary with property in a rural or residential zone. They are normally 25 feet wide unless otherwise specified. approved by the administrator upon receipt of a detailed planting plan prepared by a landscape architect or qualified landscape designer. Buffering plantings are intended to provide an all season solid barrier to totally separate incompatible uses visual screen between commercial or industrial uses on one side, and rural or residential uses on the other side. or to protect adjacent roadways from unsightliness or visual distraction. Landscape buffers may be required on road frontages as a condition of development for commercial or industrial development that includes outside storage of materials, outside parking of equipment or vehicles other than vehicles for sale on the site, and similar uses that can be a visual distraction or unsightly to persons on the public right-of-way. Plant materials which that have minimal irrigation needs, and are native or have a demonstrated suitability for Whatcom County are required. Twenty-five-foot planted buffers shall, at a minimum, consist of two offset rows of ~~predominately~~ predominantly coniferous trees at an average spacing of 15 feet triangulated on center or an equivalent effect. Some deciduous trees shall be included and shrubs may be interspersed to provide interlocking root structures to reduce windfall windthrow. In addition, a solid screen fence or wall not less than six feet nor more than seven feet high, or a shrubbery screen which will be at least five feet high and provide 75 percent coverage within three years shall be provided. Fifty-foot planted buffers will require four rows of trees in the same triangulated pattern as required in twentyfive foot buffers. Existing natural buffers are encouraged but may need additional width or be augmented with additional landscaping or fencing to provide the required sight barrier.~~

The buffer requirements for the ~~Urban Residential Medium Density Neighborhood Commercial~~ zone when abutting the Urban Residential Medium Density zone and

~~the Neighborhood Commercial zone (except as otherwise provided in WCC 20.60.552) can be met with a fence or wall as required above and a row of trees similar to plantings required along rights-of-way. six foot high sight-obscuring fence or a dense hedge of sight-obscuring plantings.~~

This amendment is referred to in the code sections of:

**Neighborhood Commercial: 20.60.552 Buffer Area**

**Small Town Commercial: 20.61.600 Buffer Area**

**General Commercial: 20.62.550 Buffer Area**

**Tourist Commercial: 20.63.550 Buffer Area**

**Resort Commercial: 20.64.550 Buffer Area**

**Gateway Industrial: 20.65.550 Buffer Area**

**Light Impact Industrial: 20.66.551 Buffer Area**

**General Manufacturing: 20.67.551 Buffer Area**

**Heavy Impact Industrial: 20.68.552 Buffer Area**

**3) 20.84.260 Date of Expiration.**

Applications for Conditional Use Permits, Variances, Expansions of Nonconforming Uses, Administrative Approvals, and any other permits provided for in this Chapter shall expire one (1) year after filing of the application if the applicant does not pursue completion of the appropriate process within that time by failing to take any action on the application.

Such applications that are presently beyond the one-year anniversary of their filing date will be provided official notice by return receipt mail from the County that they have six months (6) from the date of the receipt of said notice to pursue completion of their application. If they do not complete the actions as indicated on the notice within the specified 6-month period, the application will expire.

The hearing examiner shall have the authority to fix a date of expiration of any or all approval, or conditions attached thereto, of conditional use permits, variances or expansions of nonconforming uses.

**4) 20.04.031 Vesting of Permits**

(1) Project Permits Defined. For the purpose of this section, "project permit" and "project permit application" shall be as defined in RCW 36.70B.020:

Any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site

plans, planned unit development permits, site plan review, permits or approvals required by critical areas ordinances, site specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(2) Project Permits Approved Prior to Effective Date.

(a) Project permits which have been approved by Whatcom County on or before the effective date of the ordinance codified in this section are hereby deemed to be vested under the zoning and land use regulations in effect at the time of the complete application therefor.

(b) Future building permits that may be required to construct or complete the project as originally approved shall be subject to the building codes in place at the time of the building permit application.

(3) Project Permit Applications Submitted After the Effective Date.

(a) Project permit applications submitted after the effective date of the ordinance codified in this section shall be vested under the zoning and land use regulations in effect at the time of application; provided, that the county has not subsequently notified the applicant that the application is incomplete.

(b) If the county has notified the applicant that the application is incomplete, the application shall not be deemed vested until the date the county notifies the applicant that the application is complete.

(c) Until the county implements RCW 36.70B.070, the county shall make the determination of completeness in accordance with its existing policy. Once the provisions of RCW 36.70B.070 regarding completeness are implemented, such provision shall govern the determination of a complete application.

(d) Future building permits that may be required to construct or complete the project as originally approved shall be subject to the building codes in place at the time of the building permit application.

(4) Project Permit Applications Submitted Prior to the Effective Date, But Which Have Not Received Final Approval on or Before the Effective Date.

(a) Project permit applications submitted prior to the effective date of the ordinance codified in this section but which have not received final approval on or before the effective date of the ordinance codified in this section shall be deemed vested under the zoning and land use regulations in effect at the time the county accepted payment of an application fee; provided, that the county has not subsequently notified the applicant that the application is incomplete.

(b) If the county has notified the applicant that the application is incomplete, the application shall not be deemed vested until the date the county notifies the applicant that the application is complete.

(c) Future building permits that may be required to construct or complete the project as originally approved shall be subject to the building codes in place at the time of the building permit application.

(5) Additional Provisions.

(a) Nothing herein shall restrict the county's authority to impose conditions on project permits pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW and WAC 197-11-600.

~~(b) Nothing herein shall be construed to restrict the county's ability, to the extent otherwise permitted by law, to apply new regulations to a project permit or project permit application upon a finding that a change in conditions creates a serious threat to the public health and safety. (Ord. 96-011).~~

(b) Project permit applications for development of lots created by the Short Plat process shall comply with all development regulations, including but not limited to Critical Areas Ordinance, impervious surface restrictions, environmental work closure periods, and all other applicable code standards.

5) **20.97.171 Habitable Space or Habitable Room**

"Habitable Space or Habitable Room" means any space or room within a structure that is being used for living, sleeping, cooking or dining purposes.

6) **20.97.105 Dwelling unit.**

~~"Dwelling unit" means a building, or portion of a building or modular manufactured housing unit that is constructed or installed on a permanent foundation and designed for long term human habitation, which has facilities for cooking, eating, sleeping, toilet restroom and bathing for use by one family (including resident domestic employees); the term does not include tents, campers, recreational vehicles or travel trailers.~~ single residential structure providing complete independent living facilities for one or more persons, including permanent provisions and fixtures for living, sleeping, eating and sanitation. (Ord. 87-12, 1987; Ord. 87-11, 1987).

7) **Clarification of Whatcom County Code 'Location of Detached Accessory Dwelling Units to Single Family-Dwellings'.**

**20.---.132,133(10), (11) or (12)**

"Detached accessory dwelling units shall be located so as to minimize visual impact to the public right-of-way and to adjacent properties. Location in immediate proximity to the primary residence is preferred. Location closer to property lines than to the primary residence may be considered by the administrator when such location serves the goal of reducing overall visual impact to public right-of-way and adjacent properties, and such location still meets the setback requirements as stated in WCC 20.80. closer to the primary unit than to any adjoining property line unless site constraints require location closer to the property line. If an accessory unit is located closer to an adjacent property line than to the primary dwelling or within 50 feet of an adjoining property, the applicant must provide a statement of nonobjection from the adjacent property owner and To minimize environmental and visual impact the applicant may be required to provide fencing and/or planting to must-screen the unit from public right-of-way and adjacent properties. to minimize visual impacts;" ...

This amendment is referred to in the code sections of:

December 12, 2006

**Urban Residential 20.20.132(12)**

**Urban Residential Medium Density 20.22.132(12)**

**Urban Residential Mixed 20.24.133(11)**

**Residential Rural 20.32.132(12)**

**Residential Island 20.34.132(12)**

**Rural 20.36.132(12)**

**Point Roberts Transitional District 20.37.132(11)**

**Agriculture 20.40.132(10)**

**Rural Forestry 20.42.132(12)**

**Resort Commercial 20.64.132(12)**