

PROPOSED BY: Caskey-Schreiber
SPONSORED BY: Consent
INTRODUCTION DATE: April 24, 2007

ORDINANCE# 2007-026

AMENDING WHATCOM COUNTY CODE 16.32, REGULATIONS FOR FERTILIZER APPLICATION ON RESIDENTIAL LAWNS AND PUBLIC PROPERTIES WITHIN THE LAKE WHATCOM AND LAKE SAMISH WATERSHEDS

WHEREAS, the Lake Whatcom Reservoir is the source of drinking water for approximately half of all Whatcom County residents; and

WHEREAS, Lake Samish serves as a water supply for numerous lakeshore residents; and

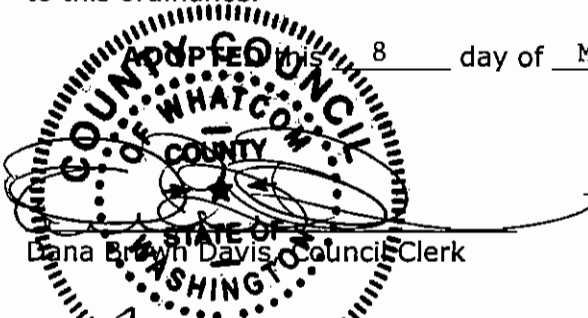
WHEREAS, an overabundance of phosphorous has been identified as a significant factor contributing to excessive algal growth and low dissolved oxygen conditions in certain portions of both lakes at particular times of the year; and

WHEREAS, these conditions may lead to increased treatment costs for drinking water and impair other beneficial uses of the lakes; and

WHEREAS, the Whatcom County Council is authorized under Article XI, Section 11 of the State Constitution to restrict the use of fertilizers containing phosphorus within the Lake Whatcom and Lake Samish watersheds.

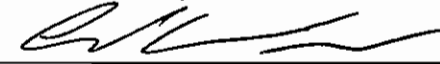
NOW THEREFORE BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Chapter 16 is hereby amended as indicated in the attached Exhibit A to this ordinance.

ADOPTED this 8 day of May, 2007

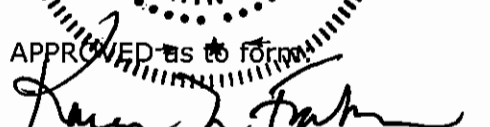


Dana Brown Davis, Council Clerk


WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Carl Weimer, Chairperson

APPROVED as to form


Civil Deputy Prosecutor

() Approved () Denied


Pete Kremen, Executive

Date: 5-10-07

EXHIBIT A

CHAPTER 16.32 **ESTABLISHING REGULATIONS FOR FERTILIZER APPLICATION ON RESIDENTIAL LAWNS AND PUBLIC PROPERTIES WITHIN THE LAKE WHATCOM AND LAKE SAMISH WATERSHEDS**

Sections:

16.32.010 Authority.

16.32.020 Purpose and intent.

16.32.030 Applicability.

16.32.040 Definitions.

16.32.050 Regulation of the use and application of lawn fertilizers.

16.32.060 Exemptions.

16.32.070 Annual review.

16.32.080 Penalties and enforcement.

16.32.090 Severability clause.

16.32.010 Authority.

This chapter is recommended by Whatcom County under the authority of the police power granted to political subdivisions of the state by Article XI, Section 11 of the Washington State Constitution. (Ord. 2005-038 (Exh. A)).

16.32.020 Purpose and intent.

The Lake Whatcom Reservoir is the source of drinking water for approximately half of Whatcom County residents and Lake Samish serves as a water supply for many lakeshore residents. Both Lake Whatcom and Lake Samish support multiple beneficial uses including recreation and fisheries. These benefits enhance the environmental, recreational, cultural, and economic resources of the area and contribute to the general health and welfare of the public. Excess phosphorus entering Lake Whatcom and Lake Samish has been identified as a significant factor contributing to algal growth and low dissolved oxygen conditions in certain portions of the lake at particular times of the year. These conditions may lead to increased treatment costs for drinking water and impair other beneficial uses of the lake. The purpose of this chapter is to promote improvement in lake water quality by limiting phosphorus entering Lake Whatcom and Lake Samish due to the application of commercial fertilizers to residential lawns and public properties within the Lake Whatcom and Lake Samish watersheds. (Ord. 2005-038 (Exh. A)).

16.32.030 Applicability.

This chapter applies to the unincorporated areas within the Lake Whatcom and Lake Samish watersheds as defined by the Surface Water Delineation Boundaries in WRIA 1 – Version 3 (Attachment). (Ord. 2005-038 (Exh. A)).

16.32.040 Definitions.*

For purposes of this chapter, the following terms shall be defined as stated:

A. "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It does not include unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule.

B. "Department" means the Department of Agriculture of the state of Washington or its duly authorized representative.

C. "Manipulation" means processed or treated in any manner, including drying to a moisture content less than 30 percent. (Ord. 2005-038 (Exh. A)).

* Definitions from Chapter 15.54 RCW.

16.32.050 Regulation of the use and application of lawn fertilizers.

A. Effective April 1, 2005, for Lake Whatcom and June 1, 2007, for Lake Samish, no person shall apply any commercial fertilizer to residential lawns or public agency properties within the unincorporated area of the Lake Whatcom watershed, either liquid or granular, that is labeled as containing more than zero percent phosphorus or other compound containing phosphorus, such as phosphate, except as provided in WCC 16.32.060.

B. No commercial fertilizer of any type shall be applied when the ground is frozen.

C. No person shall apply, spill, or otherwise deposit commercial fertilizer on impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on impervious surfaces shall be immediately and completely removed. (Ord. 2005-038 (Exh. A)).

16.32.060 Exemptions.

The prohibition against the use of commercial fertilizers under WCC 16.32.050 shall not apply to newly established turf or lawn areas in the first growing season. (Ord. 2005-038 (Exh. A)).

16.32.070 Annual review.

On at least an annual basis for the first five years, the county shall review water quality data and implementation activities associated with this chapter to determine if any changes to the ordinance are needed. Such changes could include expanding the chapter to include properties and applications that are not currently included. (Ord. 2005-038 (Exh. A)).

16.32.080 Penalties and enforcement.

A. Any person who violates any of the provisions of this chapter shall be guilty of a civil offense and may be fined a sum not to exceed \$1,000 for each offense. After a notice of violation has been given, each day of site work in conjunction with the notice of violation shall constitute a separate offense.

B. The penalty provided in subsection A of this section shall be assessed and may be imposed by a notice in writing either by certified mail with return receipt requested or by personal service to the person incurring the same. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity. In appropriate cases, corrective action shall be taken within a specific and reasonable time.

C. Within 20 calendar days after the notice is received, the person incurring the penalty may apply in writing to the county for remission or mitigation of such penalty. Upon receipt of the application, the county may remit or mitigate the penalty upon whatever terms the county in its discretion deems proper. The county's final decision on mitigation or revision shall be reviewed by the hearing examiner if the aggrieved party files a written appeal therewith of said decision within 10 calendar days of its issuance.

D. The prosecuting attorney may enforce compliance with this chapter by such injunctive, declaratory or other actions as deemed necessary to ensure that violations are prevented, ceased, or abated. (Ord. 2005-038 (Exh. A)).

16.32.090 Severability clause.

If any section, provision or portion of this chapter is ruled invalid by a court, the remainder of the chapter shall not for that reason be rendered ineffective or invalid. (Ord. 2005-038 (Exh. A)).