

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2007 - 229 A

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
<i>Originator:</i>	BB,DM,CW	10/30/2007		11/7/2007	Introduction
<i>Division Head:</i>				11/20/2007	Hearing
<i>Dept. Head:</i>					
<i>Prosecutor:</i>					
<i>Purchasing/Budget:</i>					
<i>Executive:</i>					

TITLE OF DOCUMENT:
 Interim Ord Removing Lot Clustering Provision from WCC 20.42 Rural Forestry Dist

ATTACHMENTS:

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

Ordinance removing, on an interim basis, the lot clustering provision from Whatcom County Code 20.42, Rural Forestry District

COMMITTEE ACTION:	COUNCIL ACTION: 11/7/2007: Introduced 11/20/2007: Council Adopted 6-1 Crawford opposed Ord. 2007-064
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Related County Contract #:	Related File Numbers:	Ordinance or Resolution Number: Ord. 2007-064
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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.

SPONSORED BY: Brenner, McShane, Weimer

PROPOSED BY: Nelson

INTRODUCTION DATE:: November 7, 2007

ORDINANCE NO. 2007-064

**ORDINANCE REMOVING, ON AN INTERIM BASIS, THE LOT CLUSTERING
PROVISION FROM WHATCOM COUNTY CODE 20.42,
RURAL FORESTRY DISTRICT**

WHEREAS, the Whatcom County Council wishes to maintain and enhance Whatcom County's natural resource industries and protect the rural character of the County; and

WHEREAS, approximately 36,526 acres of land in Whatcom County are identified as supporting commercial forestry with zoning of rural or agriculture; and

WHEREAS, the Whatcom County Council recognizes that conversion of forest use to other incompatible land uses can and will threaten future forest practices; and

WHEREAS, continued pressure to convert land to residential use will threaten this valuable resource and can reduce environmental protection; and

WHEREAS, on November 21, 2006, and May 22, 2007, the Whatcom County Council adopted interim ordinances removing the lot clustering provision from Whatcom County Code 20.42, Rural Forestry; and

WHEREAS, the ordinance currently in effect (Ordinance 2007-028) will expire on December 12, 2007; and

WHEREAS, the county needs additional time to allow for full review of this issue by county staff and the Planning Commission; and

WHEREAS, the Whatcom County SEPA Official issued a Determination of Non-Significance on November 1, 2006; and

WHEREAS, the Council makes the following findings of fact to justify its actions as required by RCW 36.70.795:

1. The Resource Lands Chapter of the Whatcom County Comprehensive Plan states that the goals of individual forest landowners, whether in the forestry zone or not, encompass a broader range of objectives than just timber production and may include management for wildlife, conservation, specialty forest products, firewood, privacy, aesthetics, and low density residential or other uses compatible with forestry.

2. County-Wide Planning Policy I-9 states, "As part of a broad based economy, productive timber, agriculture and fisheries industries should be maintained in a sustainable manner."

3. Whatcom County Comprehensive Plan Policy 8F-3 states: "Lands mostly devoted to growing trees for commercial timber production, usually located within public service districts such as fire or water districts, accessed by private roads built to Whatcom County development standards or public roads, with low density residential development. Land parcels are generally 20 acres or greater in size."

4. Whatcom County Comprehensive Plan Policy 8F-7 states: "Discourage inappropriate conversion of productive forest land to incompatible non-forest uses. It is the intent of this policy not to allow conversion of forest land if the proposed use is incompatible with the maintenance of long-term forest management. Incompatible uses include those which:

- create fire or safety hazards to adjacent forest land;
- permanently remove a significant portion of a parcel from productive forest use;
- create significant financial hardships for adjacent forest landowners; or
- can lead to land use conflicts with adjacent forest landowners."

5. Whatcom County Comprehensive Plan Policy 8H-6 states: "Adopt development regulations that would allow minimal residential development in Commercial Forestry zones."; and

WHEREAS, the Council makes the following conclusions:

1. This interim regulation relating to removal of the clustering provision from Whatcom County Code 20.42 is consistent with the planning goals of the Growth Management Act (RCW36.70A.020).

2. This interim regulation is consistent with the goals of the Whatcom County Comprehensive Plan.

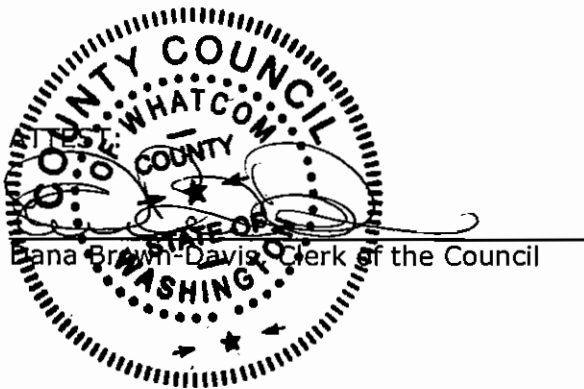
3. This interim regulation will serve the public interest by providing the county with time to review the Whatcom County Code to ensure that the County is encouraging the conservation of productive forest and agricultural lands and discouraging incompatible uses.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code 20.42, Rural Forestry District, is hereby amended as indicated in Exhibit A to this ordinance.

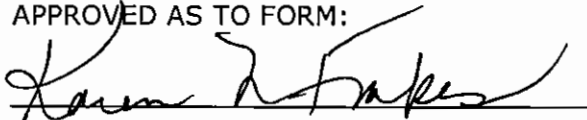
BE IT FURTHER ORDAINED by the Whatcom County Council, pursuant to RCW 36.70.795, that this amendment shall be effective for not longer than six months following the effective date of this ordinance, which may be renewed for one or more six-month periods if subsequent hearings are held and findings of fact are made prior to each renewal.

BE IT FINALLY ORDAINED that 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 20 day of November, 2007.



APPROVED AS TO FORM:



Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Carl Weimer, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

 Executive Pro Tempore

Pete Kremen, County Executive

() Approved () Denied

Date Signed: 11/21/07

EXHIBIT A

Chapter 20.42 RURAL FORESTRY (RF) DISTRICT

Sections:

- 20.42.010 Purpose.
- 20.42.050 Permitted uses.
- 20.42.100 Accessory uses.
- 20.42.130 Administrative approval uses.
- 20.42.150 Conditional uses.
- 20.42.200 Prohibited uses.
- 20.42.250 Minimum lot size and width.
- 20.42.251 Minimum lot size.
- 20.42.252 Maximum density and minimum lot size.
- 20.42.253 Minimum lot width and depth.
- ~~20.42.300 Lot clustering and reserve tract.~~
- ~~20.42.310 Lot clustering.~~
- 20.42.315 *Repealed.*
- ~~20.42.320 Reserve tract.~~
- 20.42.330 *Deleted.*
- 20.42.350 Building setbacks.
- 20.42.400 Height limitations.
- 20.42.450 Lot coverage.
- 20.42.550 Reforestation area.
- 20.42.650 Development criteria.
- 20.42.651 Plat language for proposed subdivisions.
- 20.42.652 Use of natural resources.
- 20.42.653 Landscaping.
- 20.42.654 Parking requirements.
- 20.42.655 Livestock regulations.
- 20.42.656 Domestic water supplies.
- 20.42.657 Drainage.
- 20.42.900 Conditional use permit criteria.

20.42.010 Purpose.

The purpose of this district is to implement the forestry designation of the Whatcom County Comprehensive Plan, established pursuant to RCW 36.70A.170, by providing the opportunity for nonindustrial landowners to manage their land for long-term productivity, and sustained use of forest resources. In addition, the district encourages the management of land for wildlife, aesthetics, and other noncommodity values. It also provides for uses that are compatible with these activities, while maintaining water quality and soil productivity. Lummi Island Scenic Estates shall be administered under the RR-I zone district regulations. (Ord. 2005-079 § 1, 2005; Ord. 2003-029 § 1 (Att. A § 6), 2003; Ord. 98-083 Exh. A § 66, 1998; Ord. 92-094, 1992; Ord. 91-023, 1991; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 86-42, 1986).

20.42.050 Permitted uses.

Unless otherwise provided herein, permitted, accessory and conditional uses shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC (Supplementary Requirements) and Chapter 20.84 WCC

(Variances, Conditional Uses and Appeals), the Whatcom County SEPA Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program.

.051 The cultivation, harvest, and production of forest products or any forest crop, in accordance with the Forest Practice Act of 1974 and any regulations adopted pursuant thereto; and the cultivation, harvest and production of ferns, moss, boughs, bark, berries, nuts, tree fruits, tree seeds, nursery stock, and Christmas trees.

.052 Agriculture, floriculture, horticulture, beekeeping; raising, keeping and feeding of domestic animals, poultry and livestock; and structures accessory to animal husbandry.

.053 Operation of sawmills, chippers, shake and shingle mills, scaling stations; log dumps, sorting and storage areas; forest industry equipment maintenance buildings and storage yards, and forest industry residue dumps and other uses involved in the harvesting and primary processing of timber; provided, that all such uses within 1,000 feet of any existing Residential or Commercial Zone District as well as the Recreation and Open Space (ROS) District, or park, or recreation area shall be temporary and of less than 12 months' duration.

(1) The intent of processing is initial reduction in bulk and/or to facilitate transport to secondary processing centers; and

(2) All uses within 1,000 feet of a park, recreation area or zone district other than Rural, Agriculture or Industrial, shall be temporary and of less than 12 months' duration.

.054 The management and propagation of fish and wildlife.

.055 Watershed management practices including erosion control measures, drainage control structures, vegetation management to improve runoff characteristics, weather stations, stream gauging stations, or watershed research facilities.

.056 One single-family dwelling per legal lot of record.

.057 Deleted by Ord. 2001-012.

.058 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

.059 Repealed by Ord. 2000-006.

.060 Living quarters for trail crews, fire crews, nursery crews, logging crews, maintenance crews and watchmen.

.061 Hydroelectric power generation facilities using only diversion structures creating impoundments less than three acres, and cogeneration facilities; provided, that the power shall be to serve and will be associated with a permitted or conditional use situated in the Forestry Zone District.

.062 Storage of explosives operated in compliance with Chapter 70.74 RCW.

.063 Trails, trailheads, restroom facilities and associated parking areas for no more than 30 vehicles.

.064 Temporary dwelling units which have full living accommodations including sleeping, self-contained cooking, bathing, and toilet facilities where the plumbing is connected to permanent site sewage and water systems, including those travel trailers and recreational vehicles that meet the above description, for use by owners during the period of construction of a permanent dwelling while building permit is valid, not to exceed two years.

.065 Private, noncommercial, recreation occupancy of a recreational vehicle; provided, that the following minimum requirements and standards are met and/or followed:

(1) Maximum length of stay of any recreational vehicle on a lot shall not exceed a total of 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more than 14 consecutive days nor more than 30 days total per calendar year.

(2) One recreational vehicle and one accessory guest RV per lot shall be allowed. If such lot is greater than five nominal acres, one additional guest RV may be allowed per each additional two acres of the subject lot. The total number of recreational vehicles on a single lot at one time shall not exceed five.

(3) In the case of a special event or occasion:

(a) Any proponent of a temporary special event which requires a total allowable number of RVs that exceeds the standard maximum allowed, shall file an affidavit with the department of planning and development services which specifies the nature of the special event, location, specified days of the proposed use and the sanitation and wastewater disposal facilities proposed for the event.

(b) The duration of the temporary special event shall include the days the use is being set up and established as well as when the event actually takes place.

(c) A parcel shall host no more than three temporary special events within a calendar year; provided, that the time periods specified in subsection (1) of this section are not exceeded.

(4) All recreational vehicles that remain on the site for more than 14 consecutive days shall be connected to a permitted on-site sewage system or public sewer or shall provide documentation that wastewater was removed by a licensed sanitary disposal service.

(5) All recreational vehicles shall be screened from neighboring properties not using RVs and from public roads. Such screening may consist of landscaped buffer areas, suitable native vegetation or a fence.

(6) Lots shall not be leased or rented out on a daily or overnight basis for recreational use.

(7) The locations of parked RVs on vacant lots shall observe normal building setback standards for a single-family residence.

(8) All recreational vehicles shall be supported by their own wheels or camper jacks, and not be fastened to accessory structures. Placement of a recreational vehicle on a foundation or removal of the wheels of a recreational vehicle, except for temporary purposes for repair, is prohibited.

.066 Gravel bar scalping projects within the jurisdiction of the Shoreline Management Program.

.067 Light industrial/manufacturing uses that were legal under concomitant agreement filed under Auditor File # 940107190 (as revised under Auditor File # _____) prior to the effective adoption date of the county's Comprehensive Plan, May 20, 1997, will be considered permitted uses. Expansion will be allowed as a permitted use but will be limited to the land area zoned Light Impact Industrial on May 20, 1997, and must comply with applicable conditions and with the requirements of the Light Impact Industrial zone where there is conflict with the requirements of the Rural Forestry zone.

.068 One one-story detached accessory storage building per lot; provided, that the floor area shall not exceed 200 square feet and shall only be used for personal storage and not for habitation or business; and provided further, that the storage building shall contain no indoor plumbing but may be served with electrical power for lighting.

.069 Public forest preserves, wildlife reserves, natural systems education, and/or interpretive areas.

.088 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district. (Ord. 2005-079 § 1, 2005; Ord. 2004-026 § 1, 2004; Ord. 2004-014 § 2, 2004; Ord. 2001-012 § 1, 2001; Ord. 2000-040 § 1, 2000; Ord. 2000-006 § 9, 2000; Ord. 99-062, 1999; Ord. 98-078 Exh. A, 1998; Ord. 97-069, 1997; Ord. 92-094, 1992; Ord. 92-079, 1992; Ord. 88-29, 1988; Ord. 87-23, 1987; Ord. 86-42, 1986).

20.42.100 Accessory uses.

.101 Utilization of sewage sludge on land when regulated by a utilization permit issued by the Bellingham-Whatcom County district department of public health in accordance with WAC 173-304-300. This would apply to any land owned or leased by the same operator. Utilization of sludge in the Lake Whatcom watershed is not allowed.

.102 Uses incidental to the primary permitted uses.

.103 (1) The usual wholesale marketing activities associated with the agricultural, aquacultural, forestry, and mineral resource uses permitted in this district.

(2) Retail marketing, by the operator, of Whatcom County products which originate from the permitted uses stated in WCC 20.42.050; provided:

(a) Only one stand containing not more than 500 square feet of floor area shall be permitted;

(b) Such stand shall be subject to the setback requirements of WCC 20.80.200; and

(c) Such stand shall be provided with a sufficient area to permit at least five automobiles to park safely off the road right-of-way and to re-enter the traffic in a forward direction.

.104 On-site treatment and storage facilities for hazardous wastes associated with outright permitted uses or approved conditional uses subject to the most current siting criteria under Chapter 173-303 WAC. On-site treatment and storage facilities for hazardous wastes are not allowed in the Lake Whatcom watershed.

.105 Home occupations, when in compliance with the following:

(1) The occupation or profession shall be carried out wholly within the principal or accessory buildings; and

(2) Not more than two persons outside the immediate family shall be employed in the home occupation. (Ord. 2003-029 § 1 (Att. A § 13), 2003; Ord. 96-056 Att. A § J1, 1996; Ord. 92-094, 1992; Ord. 91-023, 1991; Ord. 89-10, 1989; Ord. 88-29, 1988; Ord. 87-84, 1987).

20.42.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer or motor home, to provide:

(1) A temporary dwelling space for family members who, due to professionally documented physical or mental disorders, or risks of such disorders, require supervision and care where such care is provided by members of the family who reside on the property; or

(2) A temporary dwelling space for a person providing care for the resident owner of the subject property when said owner needs supervision and care as described in (1) above.

Approval Requirements:

Administrative approval for temporary second dwelling units shall be approved if it is determined that the proposal meets the following requirements:

(1) Temporary second dwelling units shall only be permitted on fully serviced parcels on which the applicant can meet setback, ingress, egress, height restrictions, and lot coverage requirements.

(2) The size of the temporary dwelling shall be appropriate to the use and size of the parcel and shall be limited so as to comply with the standards set forth in (1) above.

(3) The temporary home shall be connected to an approved water supply and adequate capacity sewage disposal system approved by the Whatcom County health department.

(4) When care is no longer necessary, the temporary home shall be removed within 60 days.

(5) The permit shall be valid for one year. The permit may be extended on a yearly basis; provided, that an affidavit is furnished by the permittee affirming that the circumstances allowing the original permit remain in effect.

(6) A covenant shall be filed that restricts sale of the property while the temporary dwelling is in place.

(7) The use will not be hazardous or disturbing to existing or future neighboring uses.

(8) Evidence of adequate off-street parking space shall be provided.

(9) There shall be no occupancy of the temporary dwelling outside the conditions under which the temporary dwelling is permitted pursuant to this section.

(10) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with current Washington Administrative Code (WAC).

Penalties: False statements on supporting documentation submitted with the application or failure to comply with any of the approval requirements may be cause for revocation of the permit and prosecution.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following approval requirements are met:

(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;

(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;

(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;

(4) There shall be only one front entrance to the house visible from the front yard and street for accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;

(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;

(6) In no case shall an accessory apartment or detached dwelling unit be larger than 1,248 square feet in floor area;

(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:

(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;

(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;

~~(c) All reserve tracts within long plats and short plats created by the cluster subdivision method;~~

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling; except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be 20 acres;

(11) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:

(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and

(b) All of the above approval requirements shall be met for so long as the accessory unit remains;

(12) Detached accessory units shall be located 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 must screen the unit to minimize visual impacts;

(13) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

.133 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

.135 Cottage industries employing no more than two people on-site, other than family members residing on the premises; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087:

(1) The zoning administrator, at his or her discretion, may place limitations on the square footage in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 2,500 square feet of total floor area. The total land area used for buildings and outside storage or other uses related to the cottage industry shall not exceed 10,000 square feet or 25 percent of the site, whichever is less.

(2) The parcel size shall not be less than one acre.

(3) In the event materials will be stored outdoors, the zoning administrator shall require adequate landscaping, screening, or other devices in order that the material will not be visible by surrounding uses or roads.

(4) One nonilluminated sign, not to exceed 16 square feet in size, mounted on the property, is permitted. A larger sign up to 32 square feet may be approved by the hearing examiner as a conditional use.

(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.

.136 Forestry related/wood based cottage industries which employ no more than 10 on-site people other than family members residing on the premises, including primary or low intensity secondary processing of timber not permitted in WCC 20.42.053, including fabrication of furniture and fixtures, partitions, shelves and lockers, manufacture, processing, treatment and fabrication of lumber, millwork, miscellaneous wood products, and other wooden building and roofing materials, excluding pulp, paper or plywood mills, conducted in structure(s) other than the dwelling unit; provided, that:

(1) The administrator, at his discretion, in consideration of the surrounding development patterns, property uses and size of the lot on which the proposed cottage industry is locating, may place limitations on the square footage used in an existing or new structure used for a cottage industry. The construction of new buildings to house said activity shall not, in any case, exceed 4,000 square feet of total floor area.

(2) The parcel must access from a collector arterial or higher standard street (this could include shared access).

(3) Minimum parcel size is one acre. Minimum lot size is five acres for buildings which exceed 2,500 square feet of total floor area, and/or are constructed of materials which are not of similar materials or scale to a single-family residence.

(4) Minimum open space requirement is 40 percent. Adequate buffering is required for both visual screening and noise reduction and must comply with WCC 20.80.345. The administrator may modify the required buffer widths, either reduction or enlargement, on a site-specific basis. A finding regarding the rationale for such modification will be entered into the record. Site development should maintain the existing natural vegetation to the greatest extent possible.

(5) All work is conducted within a building, except that uses which are complementary to the Rural Forestry District and which are determined to be harmonious with adjacent parcels may be allowed outdoors.

(6) In the event materials will be stored outdoors, the administrator may require adequate landscaping, screening or other devices in order that the material will not be visible by surrounding uses or roads.

(7) For parcels visible from a state scenic highway, the administrator shall, at his discretion, require additional measures or restrictions to protect scenic vistas.

(8) The operation of the business must comply with county/state noise, air quality and all other applicable regulations.

(9) There is no polluting or hazardous industrial discharge to a public sewer or septic system.

(10) One nonilluminated freestanding sign, visible from the road, and not exceeding six feet in height, may be permitted. One additional nonilluminated sign may be attached to the building for a maximum total signage of 16 square feet. No portion of any sign shall extend above the lowest portion of the roof.

(11) Not more than 10 nonfamily members not residing on the premises can be employed on site.

(12) An application packet shall be submitted on forms provided by county and must provide a site plan, drawn to scale, which shows the location of existing and proposed structures, includes dimensions of new and proposed structures to property lines, distance to adjacent structures, uses of adjacent parcels, existing vegetative cover and proposed modifications to vegetative cover of proposed site, location of permanent buffers and proposed plant

materials for the permanent buffer, including species, sizes and spacing. (Ord. 2005-079 § 1, 2005; Ord. 2001-012 § 1, 2001; Ord. 98-078 Exh. A, 1998; Ord. 98-018 § 1, 1998; Ord. 97-069, 1997).

20.42.150 Conditional uses.

The conditional uses listed herein shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC (Supplementary Requirements) and Chapter 20.84 WCC (Variances, Conditional Uses and Appeals), the Whatcom County SEPA Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program. Applicable conditional use permit criteria are established in the provisions of WCC 20.42.900 and will not be subject to the conditional use criteria provided for in WCC 20.84.220.

.151 Construction and operation of water diversion structures, impoundment dams and hydroelectric generating facilities not permitted under WCC 20.42.061.

.152 Bed and breakfast establishments.

.153 Surface mining, rock crushing, and accessory washing and sorting, subject to the conditions in WCC 20.36.159.

.154 Operation of indoor or outdoor parks and recreation facilities including camps, community centers, campgrounds, activity centers, marinas, riding academies, developed trailheads with more than 30 parking spaces and off-road vehicle parks; provided, that in the Lake Whatcom watershed riding academies, marinas, recreational vehicle and off-road vehicle parks are not allowed.

.155 The operation of facilities intended to provide education related to forestry, natural resources and wildlife and the purpose of this district, including but not limited to demonstration forests and conservation laboratories, educational meeting facilities and related uses including rental cabins or other lodging structures, cooking and dining facilities, retail sales or meeting supplies and gifts, in the Foothills Subarea, South Fork Valley, the Newhalem Exclave and the Baker Lake Exclave, provided the following standards are met:

(1) Density shall not exceed one sleeping unit per one gross acre or a maximum of 50 beds for the entire development.

(2) Each cabin shall have a maximum of three sleeping units.

(3) Must be located with vehicular access fronting on paved county roads or private roads improved to county standards.

(4) Front yard setback shall be 75 feet, with 100 feet side and rear yard setbacks to adjacent properties.

(5) Lot coverage for all facilities, including the rental cabins, shall not exceed 20 percent, clustered on no more than 50 percent of the property.

.156 Aircraft landing areas when solely for personal (aircraft based at those landing areas are owned or controlled by the landowner or tenant and subject to any limitations deemed necessary by the hearing examiner) or forest management uses; provided the centerline of any such landing area shall not be located within 500 feet of any zone boundary other than a Commercial

Forestry zone, property line, building, or structure; except that a legal affidavit from adjacent property owner(s) allowing all, or a portion, of that 500 feet as a recorded easement on their property, presented as part of a conditional use permit application, shall be acceptable. The surface of any such landing areas shall be grass or sod and not longer than 2,500 feet. It shall be unlighted and for daytime use only.

Handling and storage of fuel and bulk chemicals associated with forest management on or near the landing area, and fuels and lubricants associated with the operation of personal use aircraft, will be stored and handled in accordance with pertinent state and county codes. Notification of conditional use permit application hearing shall go, by first class mail, to residents within 1,000 feet from any point on a proposed aircraft landing area; the applicant shall pay the cost of such mailings.

.157 The operation of fur farms and kennels.

.158 Major utility and communication facilities.

.159 Primary or low intensity, secondary processing facilities of timber not permitted in WCC 20.42.053, including fabrication of furniture and fixtures, partitions, shelves and lockers, manufacture, processing, treatment and fabrication of lumber, millwork, miscellaneous wood products, and other wooden building, roofing and construction materials and building material yards, if screened by a fence and/or vegetation as specified in WCC 20.80.355; excluding pulp or paper mills. The conditional use provisions is applicable for proposals which include structures that exceed 4,000 square feet and employ more than 10 nonfamily members.

.162 Asphalt and concrete batch plants, when within an MRL Special District.

.163 The permanent alteration or removal of more than 20 percent of the lot area, excluding natural meadows, bogs, surface waters, and rock outcrops, from the production of forest products when not otherwise authorized by WCC 20.42.450.

.164 Cottage industries as defined by WCC 20.97.087, excluding those allowed in WCC 20.42.135, and which employ not more than four people outside the family conducted in structure(s) other than the dwelling unit. Such activities will comply with all other provisions of WCC 20.36.161(1) through (5).

.165 Public facilities for emergency-related health and safety purposes, such as firehalls and Washington State Department of Transportation satellite road safety facilities.

.166 Shooting ranges.

.185 Type I solid waste handling facilities.

.186 Type II solid waste handling facilities.

.187 Mitigation banks as a form of compensatory mitigation for wetland and habitat conservation area impacts when permitted in accordance with the provisions of Chapter 16.16 WCC; provided, applications for mitigation banks shall be processed as a major development project pursuant to Chapter 20.88 WCC. (Ord. 2005-068 § 2, 2005; Ord. 2004-041 § 1, 2004; Ord. 2004-026 § 1, 2004; Ord. 2004-014 § 2, 2004; Ord. 2001-012 § 1, 2001; Ord. 2000-064 § 1, 2000; Ord. 99-031, 1999; Res. 99-010 Exh. A, 1999; Ord. 98-078 Exh. A, 1998; Ord. 97-069, 1997; Ord. 96-056 Att. A §§ J2, J3, 1996; Ord. 93-076, 1993; Ord. 92-094, 1992; Ord. 92-079, 1992; Ord. 91-013, 1991; Ord. 88-29, 1988; Ord. 86-42, 1986).

20.42.200 Prohibited uses.

.201 All other uses.

.202 Adult businesses. (Ord. 99-070 § 2, 1999; Ord. 92-094, 1992).

20.42.250 Minimum lot size and width.

20.42.251 Minimum lot size.

(1) For the purpose of creating new residential building lots within the Forestry District, one land use density is provided. The minimum lot size requirements for new residential construction ~~vary according to the method of subdivision. When the conventional subdivision method is used to create new building lots, the minimum lot size shall be 20 nominal acres or 1/32 of a section. When the cluster subdivision method is used, the minimum lot size is based on consideration of the district's setback requirements (WCC 20.80.200) and health department requirements for on-site wastewater disposal.~~

(2) Divisions of land for nonresidential purposes shall have a minimum lot size of 20 acres. (Ord. 96-056 Att. A § J4, 1996; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.252 Maximum density and minimum lot size.

Gross Density	Minimum Lot Size			Min. Reserve Area (Cluster Subdivisions)
	Conventional	Cluster	Exempt Cluster	
1 dwelling unit/20 acres	20 acres	1 acre	20 acres	85%

(Ord. 92-096, 1992; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.253 Minimum lot width and depth.

Width at Street Line			Minimum Mean Depth
Conventional	Cluster	Exempt Cluster	
535'	70'*	535'	100'
*30' on a cul-de-sac only			
Width at Building Line			Minimum Mean Depth

Conventional	Cluster	Exempt Cluster	
270□	80□	270□	100□

(Ord. 92-096, 1992; Ord. 92-094, 1992; Ord. 86-42, 1986).

~~20.42.300 Lot clustering and reserve tract.~~

~~20.42.310 Lot clustering.~~

~~The purpose of lot clustering is to provide a method of creating economical building lots with spatially efficient sizes. Clustering is intended to reduce development cost, increase energy efficiency and reserve areas of land which are suitable for agriculture, forestry, open space or possible future development. Creation of exempt cluster and reserve tracts may be exempt from standard subdivision process if exemption requirements in WCC 21.03.020 (minimum 20-acre parcel division) are met, however, the creation of new building lots within the exempt cluster tract or reserve tract, pursuant to this section, shall be governed by the following recommended design standards:~~

~~(1) Clustered building lots may only be created by subdivision or short subdivision.~~

~~(2) Building lots should be designed and located to the fullest extent possible, to be compatible with valuable or unique natural features, as well as physical constraints of the site.~~

~~(3) Where practical, the majority of building sites should be arranged in a cluster or concentrated pattern to be compatible with physical site features, allow for efficient conversion of the "reserve tract" to other uses in the future, and have no more than two encroachments on existing county roads. The arrangement of clustered building lots is intended to discourage development forms commonly known as linear, straight line or highway strip patterns.~~

~~(4) Common access to clustered building lots should be provided by short length roads or loop roads. In addition, interior streets shall be designed to allow access to the "reserve tract" for the purpose of future approved development.~~

~~(5) All Lake Whatcom Watershed clustered building lots must have a common septic system or be connected to sewer. (Ord. 2000-056 § 2, 2000; Ord. 92-096, 1992; Ord. 92-094, 1992; Ord. 86-42, 1986).~~

~~20.42.315 Exempt cluster tract.~~

~~Repealed by Ord. 2005-079. (Ord. 98-083 Exh. A § 66, 1998; Ord. 92-096, 1992).~~

~~20.42.320 Reserve tract.~~

~~For the purpose of this section, "reserve tract" is defined as that portion of a proposed subdivision, short subdivision, or exempt cluster division that is intended for agricultural, forestry, open space, or future development purposes. All "reserve tracts" created through cluster subdivision or exempt cluster division shall be subject to the following provisions:~~

~~(1) After a site is initially divided into an exempt cluster and reserve tract or cluster subdivision pursuant to this section, the "reserve tract" may be retained by the owner, conveyed to residents of the subdivision (if applicable) or conveyed to a third party.~~

~~(2) The "reserve tract" may be considered as building lot; provided the lot is included in the overall density calculation of the original parcel of record.~~

~~(3) The "reserve tract" shall not be further subdivided until the time the district is changed to another district that would permit a greater density, or until each "reserve tract" is eligible for review and consideration for other uses and densities, consistent with the Whatcom County Planning Process and Comprehensive Plan revision.~~

~~(4) In the case of a cluster subdivision or exempt cluster division the purpose of the "reserve tract" as stated in WCC 20.42.320, paragraphs (1), (2) and (3) shall be communicated in writing on the face of the plat or short plat as follows:~~

~~1. This _____ plat has been approved as a _____ subdivision. The following notes shall be considered a deed restriction and shall constitute a binding agreement between Whatcom County and all present and future owners of record. Said notes shall be included within all deeds and contracts of conveyance and may only be amended by mutual agreement between said parties pursuant to the zoning in effect at the time.~~

~~2. The currently permitted density shall be achieved with one single-family dwelling unit on each of lots _____.~~

~~3. Lot _____ has been designated as the RESERVE TRACT and is subject to the following restrictions:~~

~~a. It _____ family dwelling unit;~~

~~b. It has _____ developable building sites remaining;~~

~~c. It shall not be further divided in any manner unless _____;~~

~~d. It may be retained by the subdivider, conveyed to the residents of this short plat or subdivision, or conveyed _____.~~

~~Whatcom County shall make every effort to assist all agents in clearly communicating the information to all purchasers and prospective purchasers of building lots or "reserve tracts."~~

~~(5) The above stated requirements in paragraphs (2) through (4) shall be recorded as a deed restriction at the time of filing the final plat or short plat and shall constitute an agreement between Whatcom County and the owner of record. The deed restriction may be amended by mutual agreement between Whatcom County and the owner of record, after review for consistency and compliance with the Official Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Comprehensive Plan. (Ord. 92-096, 1992; Ord. 92-094, 1992; Ord. 86-42, 1986).~~

20.42.330 Planned unit development.

Deleted by Ord. 96-056. (Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements). Building setbacks for parcels of less than five

nominal acres shall be administered pursuant to WCC 20.80.256(4). (Ord. 2003-029 § 1 (Att. A § 2), 2003; Ord. 99-0080, 1999; Ord. 99-0058; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.400 Height limitations.

No residential structures or buildings accessory thereto with the exception of barns and silos shall exceed a height of 35 feet. (Ord. 92-094, 1992).

20.42.450 Lot coverage.

No more than 20 percent of the lot area shall be permanently altered or removed from production of forest products, excluding natural meadows, bogs, surface water and rock outcrops, unless authorized as a conditional use; ~~or unless the lot is created through the clustering provision of WCC 20.42.300~~ or the planned unit development provision of Chapter 20.85 WCC, in which case, no structure or combination of structures, including accessory buildings, shall occupy or cover more than 35 percent of the lot. (Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.550 Reforestation area.

Upon completion of forest harvest operations, the highest priority for reforestation shall be given to that land within 100 feet of another zone district. Reforestation shall utilize seedlings or whips and shall be consistent with the Forest Practice Act of 1974, as amended. (Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.650 Development criteria.

(Ord. 96-056 Att. A § A1, 1996).

20.42.651 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. (Ord. 99-058, 1999; Ord. 92-015, 1992; Ord. 87-12, 1987; Ord. 87-11, 1987).

20.42.652 Use of natural resources.

All discretionary project permits for land on or within one-half mile of the area designated as Agriculture, Rural, Commercial Forestry or Rural Forestry or within 300 feet of an area designated as Mineral Resource Lands in the Whatcom County Comprehensive Plan, or upon which farm operations are being conducted, shall be subject to the right to farm, right to practice forestry and mineral land disclosure policies contained in WCC Title 14, Use of Natural Resources. (Ord. 98-083 Exh. A § 48, 1998; Ord. 96-056 Att. A § A2, 1996; Ord. 92-094, 1992; Ord. 92-015, 1992).

20.42.653 Landscaping.

Refer to WCC 20.80.300 for landscaping requirements. (Ord. 92-094, 1992; Ord. 89-117, 1989).

20.42.654 Parking requirements.

Parking shall conform to the requirements of WCC 20.80.500. However, recreation vehicles and boat parking and storage shall be limited to side and rear yards. (Ord. 92-094, 1992).

20.42.655 Livestock regulations.

The keeping of livestock shall be administered pursuant to WCC 20.80.800 (Supplementary Requirements). (Ord. 92-094, 1992).

20.42.656 Domestic water supplies.

Domestic water supply sources shall not be located within 100 feet of the property boundary or on an adjacent property without written consent of the adjacent property owner. (Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.657 Drainage.

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards. (Ord. 96-056 Att. A § A2, 1996; Ord. 94-022, 1994).

20.42.900 Conditional use permit criteria.

.901 The conditional uses listed in WCC 20.42.150 shall be subject to the following Forestry conditional use criteria. Said criteria listed in WCC 20.42.902 shall supersede the criteria listed in WCC 20.84.220.

.902 Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use district defining the conditional use are fulfilled and shall find adequate evidence showing that the proposed conditional use at the proposed location will:

- (1) Be in accordance with all applicable local and state laws, standards and regulations;
- (2) Be reasonably compatible with the surrounding environment and with the policies of the Whatcom County Comprehensive Plan;
- (3) Not generate traffic in excess of capacity of the public road system at reasonable safety and service levels;
- (4) Not create unreasonable demands for public expenditures to provide services, facilities, or utilities beyond that which is normally required for permitted uses in the Forestry District;
- (5) Provide entrances to public roads or private roads open to public use in accordance with applicable county or state standards;
- (6) Provide reasonable sound and sight buffering so as not to detract from normal use of surrounding property, public and private roads, and trails open to public use;
- (7) Be located a reasonable distance from areas of actual or potential natural hazard;

(8) Not unreasonably contribute to actual or potential water quality or quantity problems;

(9) Be designed to provide reasonable safety from fire hazard;

(10) Not unreasonably interfere with any territorial or otherwise significant view from surrounding property and public roads;

(11) Not remove areas of native vegetation which protect shorelines and streambanks from erosion, except as necessary for such uses as culverts, bridges, boat ramps, recreation areas and stream bank stabilization projects; and

(12) Include reasonable soil erosion plans necessary to prevent soil, organic debris and other pollutants from entering streams, ponds, or lakes. (Ord. 92-094, 1992).