

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2008-401

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: E. Stroebel	ES	10/27/08	<div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">RECEIVED</div> <div style="font-size: 1.5em; font-weight: bold;">NOV 18 2008</div> <div style="font-size: 1.2em; font-weight: bold;">WHATCOM COUNTY COUNCIL</div>	11/25/08	Introduction
Division Head: J. Hutchings	JH	10/27/08		12/9/08	Hearing
Dept. Head: F. Abart	FA	10/27/08			
Prosecutor: D. Gibson	dlg DG	10/21/08			
Purchasing/Budget: B. Bennett					
Executive: P. Kremen	PK	11-18-09			
TITLE OF DOCUMENT:					
Ordinance extending the sunset date for the Drayton Harbor and Portage Bay Shellfish Protection Districts					
ATTACHMENTS:					
Memo re: Shellfish Protection District Ordinance; Draft Ordinance Amending Whatcom County Code 16.20, Whatcom County Shellfish Protection District					
SEPA review required? () Yes (X) NO SEPA review completed? () Yes () NO			Should Clerk schedule a hearing? (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.)					
The attached ordinance extends the sunset date for the Drayton Harbor and Portage Bay Shellfish Protection Districts to December 31, 2010. Public Works- Natural Resources staff recommends the continuation of the shellfish protection districts and feels the work of these groups are vital in identifying and addressing pollution sources that are affecting nearshore marine environments. These districts are also essential if we wish to see these downgraded shellfish areas reclassified to approved status and threatened shellfish areas protected from future downgrades.					
COMMITTEE ACTION:			COUNCIL ACTION:		
			11/25/2008: Introduced 12/09/2008: Council Adopted 7-0 Ord. 2008-055		
Related County Contract #:		Related File Numbers:		Ordinance or Resolution Number:	
				95-036, 98-069, 2000-028, 2002-069, 2004-061, 2007-003, 2008-055	
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 .					

1 Seventh Drayton Harbor/ Portage Bay Shellfish Ord. 2008

SPONSORED BY: Consent
PROPOSED BY: Public Works
INTRODUCED: 11/25/08

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6 ORDINANCE NO. 2008-055

7
8 AMENDING WHATCOM COUNTY CODE 16.20
9 WHATCOM COUNTY SHELLFISH PROTECTION DISTRICT
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11 WHEREAS, on July 18, 1995, the Whatcom County Council adopted
12 Ordinance 95-036, creating the Drayton Harbor Shellfish Protection District, with a
13 sunset date of December 31, 1998; and

14 WHEREAS, on March 24, 1998, the Whatcom County Council amended the
15 Whatcom County Code Chapter 16.20 to create the Portage Bay Shellfish Protection
16 District; and

17 WHEREAS, the Whatcom County Council subsequently adopted Ordinances 98-
18 069, 2000-028, 2002-069, 2004-061, and 2007-003, each extending the sunset date for
19 the Drayton Harbor and Portage Bay Shellfish Protection Districts by two years; and

20 WHEREAS, numerous efforts have occurred in both the Drayton Harbor and
21 Portage Bay Shellfish Districts to eliminate or reduce pollutants that are affecting the
22 shellfish beds, through improved partnerships, cooperative efforts and increased
23 community involvement; and

24 WHEREAS, on October 27, 2003, the Washington State Department of Health
25 reopened approximately 625 acres of Portage Bay shellfish beds and on May 26, 2006
26 upgraded the remaining 110 "restricted" acres to an "approved" classification; and

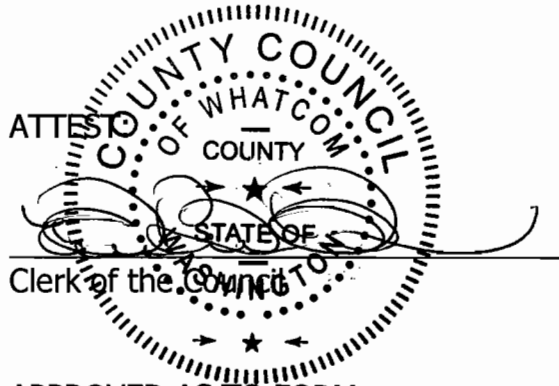
27 WHEREAS, on May 4, 2004, the Washington State Department of Health
28 conditionally approved shellfish harvest for approximately 525 acres of Drayton Harbor
29 and left 1975 acres closed to shellfish harvest; and

30 WHEREAS, work needs to continue to ensure that approved shellfish harvest
31 areas maintain "approved" status, and remaining closed areas are reopened, and

32 NOW THEREFORE, BE IT ORDAINED by the Whatcom County Council that the
33 sunset dates for the Drayton Harbor Shellfish Protection District and the Portage Bay
34 Shellfish Protection District shall be extended to December 31, 2010, as indicated in
35 Exhibit A to this Ordinance.

36 ADOPTED this 9th day of December, 2008.

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ATTEST
Clerk of the Council
APPROVED AS TO FORM:

Daniel L. Gibson
Senior Civil Deputy Prosecuting Attorney

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

[Signature]
Carl Weimer, Council Chair

() Approved () Denied

[Signature]
Pete Kremen,
County Executive

EXHIBIT A

Chapter 16.20 WHATCOM COUNTY SHELLFISH PROTECTION DISTRICTS

Sections:

16.20.010	Establishment and authority of district.
16.20.015	Purpose.
16.20.016	Establishment of program.
16.20.020	District boundaries.
16.20.040	Revenue authority.
16.20.045	Collection of charges or rates and exemptions.
16.20.050	Sunset date and dissolution of district.
16.20.060	Relationship with other entities.
16.20.065	Advisory groups.
16.20.090	Severability.

16.20.010 Establishment and authority of district.

There is hereby established the Drayton Harbor and Portage Bay shellfish protection districts under the authority of Chapter 90.72 RCW, Shellfish Protection Districts. (Ord. 98-019 Att. C; Ord. 95-036).

16.20.015 Purpose.

The purpose of these districts is to provide services to citizens experiencing nonpoint pollution of surface water drainages and coastal waters and to implement those portions of the Drayton Harbor and Portage Bay closure response strategies necessary to allow removal of the Drayton Harbor and Portage Bay downgrades. (Ord. 98-019 Att. C; Ord. 95-036).

16.20.016 Establishment of program.

The Portage Bay Initial Closure Response Strategy dated February 10, 1998, is hereby adopted as the Portage Bay shellfish protection program. (Ord. 98-019 Att. C).

16.20.020 District boundaries.

The Drayton Harbor shellfish protection district shall be the approximate area included in the Drayton Harbor Watershed and contained within the boundaries that are declared as follows:

Commencing on the forty-ninth parallel at the point dividing the American and Canadian territory in the Gulf of Georgia; thence easterly along said international boundary line to the intersection of Markworth Road; thence southerly along the centerline of Markworth Road to the intersection of Badger Road; thence easterly along the centerline of Badger Road to the intersection of Glendale Road; thence southerly along the centerline of Glendale Road to the intersection of Loomis Trail Road; thence westerly along the centerline of Loomis Trail Road to the intersection of Bob Hall Road; thence southerly along the centerline of Bob Hall Road to the intersection of Birch Bay Lynden Road; thence westerly along the centerline of Birch Bay Lynden Road to the intersection of Woodland Road; thence southerly along the centerline of Woodland Road to the intersection of Harksell Road; thence easterly

99 along the centerline of Harksell Road to the intersection of Enterprise Road; thence
100 southerly along the centerline of Enterprise Road to the intersection of Aldergrove
101 Road; thence westerly along the centerline of Aldergrove Road to the intersection of
102 Olson Road; thence northerly along the centerline of Olson Road to the intersection
103 of Grandview Road; thence westerly along the centerline of Grandview Road to the
104 intersection of Valley View Road; thence northerly along the centerline of Valley View
105 Road to the intersection of Bay Road; thence westerly along the centerline of Bay
106 Road to the intersection of Kickerville Road; thence northerly along the centerline of
107 Kickerville Road to the intersection of Birch Bay Lynden Road; thence westerly along
108 the centerline of Birch Bay Lynden Road to the intersection of Blaine Road; thence
109 northerly along the centerline of Blaine Road to the intersection of Lincoln Road;
110 then westerly along the centerline of Lincoln Road to where it becomes Semiahmoo
111 Parkway; thence following the centerline of Semiahmoo Parkway to the intersection
112 of Drayton Harbor Road; thence following a line running off-shore to the point of
113 origin in the Gulf of Georgia, plotted in such a manner as to follow existing
114 boundaries of land parcels.

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116 The Portage Bay shellfish protection district shall be the approximate area included in the
117 Nooksack Watershed and contained within the boundaries that are declared as follows:

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119 Commencing on the forty-ninth parallel at the intersection of Markworth Road;
120 thence easterly along said international boundary line to the easterly section line of
121 Township 41 North, Range 3 East, Section 35; thence southerly along said section
122 line to the intersection of Halverstick Road; thence westerly along the centerline of
123 Halverstick Road to the easterly section line of Township 40 North, Range 3 East,
124 Section 3; thence southerly along said section line to the northerly line of Township
125 40 North, Range 3 East, Section 11; thence easterly along said section line to the
126 easterly section line of Township 40 North, Range 3 East, Section 11; thence
127 southerly along said section line to the intersection of East Badger Road; thence
128 easterly along the centerline of East Badger Road to the intersection of Trap Line
129 Road; thence southerly along the centerline of Trap Line Road to the intersection
130 with the City Limits of Everson; thence proceeding easterly along the City Limits of
131 Everson to the intersection with the City Limits of Nooksack; thence proceeding
132 along the City Limits of Nooksack to the easterly section line of Township 40 North,
133 Range 4 East, Section 31; thence southerly along said section line to the northerly
134 section line of Township 39 North, Range 4 East, Section 5; thence easterly along
135 said section line to the intersection with Nooksack Road; thence southerly along the
136 centerline of Nooksack Road to the intersection with Hopewell Road; thence easterly
137 along the centerline of Hopewell Road to the intersection with Lawrence Road;
138 thence southerly along the centerline of Lawrence Road to the northerly section line
139 of Township 39 North, Range 4 East, Section 21; thence easterly along said section
140 line to the westerly section line of Township 39 North, Range 4 East, Section 13;
141 thence northerly along said section line to the northerly section line of Township 39
142 North, Range 4 East, Section 1; thence easterly along said section line to the
143 westerly section line of Township 40 North, Range 5 East, Section 31; thence
144 northerly along said section line to the northerly section line of Township 40 North,
145 Range 5 East, Section 31; thence easterly along said section to the westerly line of
146 Township 40 North, Range 5 East, Section 28; thence northerly along said section

147 line to the northerly line of Township 40 North, Range 5 East, Section 4; thence
148 easterly along said section line to the westerly section line of Township 41 North,
149 Range 5 East, Section 34; thence northerly along said section to the 49th parallel;
150 thence easterly along the 49th parallel to the easterly section line of Township 41
151 North, Range 5 East, Section 36; thence southerly along said section line to the
152 northerly section line of Township 40 North, Range 6 East, Section 6; thence easterly
153 along said section line to the easterly section line of Township 40 North, Range 6
154 East, Section 5; thence southerly along said section to the northerly section line of
155 Township 40 North, Range 6 East, Section 9; thence easterly along said section line
156 to the National Forest Boundary; thence proceeding southerly along said National
157 Forest Boundary to the boundary between Whatcom County and Skagit County;
158 thence westerly along said County boundary to the westerly section line of Township
159 37 North, Range 5 East, Section 34; thence northerly along said section line to the
160 southerly section line of Township 37 North, Range 5 East, Section 21; thence
161 westerly along said section line to the westerly section line of Township 37 North,
162 Range 5 East, Section 21; thence northerly along said section line to the southerly
163 section line of Township 37 North, Range 5 East, Section 17; thence westerly along
164 said section line to the westerly section line of Township 37 North, Range 4 East,
165 Section 13; thence northerly along said section line to the southerly section line of
166 Township 37 North, Range 4 East, Section 11; thence westerly along said section
167 line to the westerly section line of Township 37 North, Range 4 East, Section 11;
168 thence northerly along said section line to the southerly section line of Township 38
169 North, Range 4 East, Section 15; thence westerly along said section line to the
170 westerly section line of Township North, Range 4 East, Section 17; thence northerly
171 along said section line to the southerly section line of Township 38 North, Range 4
172 East, Section 7; thence westerly along said section line to the westerly section line of
173 Township 38 North, Range 4 East, Section 7; thence northerly along said section line
174 to the intersection of East Smith Road; thence westerly along the centerline of East
175 Smith Road to the easterly section line of Township 39 North, Range 3 East, Section
176 31; thence southerly along said section line to the intersection of Kelly Road; thence
177 westerly along the centerline of Kelly Road to the intersection of Guide Meridian;
178 thence southerly along the centerline of Guide Meridian to the southerly section line
179 of Township 38 North, Range 2 East, Section 1; thence westerly along said section
180 line to the easterly section line of Township 38 North, Range 2 East, Section 11;
181 thence southerly along said section to the southerly line of Township 38 North,
182 Range 2 East, Section 11; thence westerly along said section to the easterly
183 sectionline of Township 38 North, Range 2 East, Section 16; thence southerly along
184 said section line to the intersection with Bellingham Bay; thence recommencing at
185 the westerly section line of Township 38 North, Range 2 East, Section 20 in the
186 Nooksack Delta; thence northerly along said section line to the northerly section line
187 of Township 38 North, Range 2 East, Section 17; thence easterly along said section
188 line to the centerline of the Nooksack River; thence following the centerline of the
189 Nooksack River to the intersection with the City Limits of Ferndale; thence westerly,
190 proceeding along the City Limits of Ferndale to the intersection with Mt. View Road;
191 thence westerly along the centerline of Mt. View Road to the intersection with the
192 City Limits of Ferndale; thence northerly, proceeding along the City Limits of
193 Ferndale to the intersection with Church Road; thence northerly along the centerline
194 of Church Road to the intersection of Aldergrove Road; thence easterly along the

195 centerline of Aldergrove Road to the intersection of Enterprise Road; thence
196 northerly along the centerline of Enterprise Road to the intersection of Harksell
197 Road; thence westerly along the centerline of Harksell Road to the intersection of
198 Woodland Road; thence northerly along the centerline of Woodland Road to the
199 intersection of Birch Bay-Lynden Road; thence easterly along the centerline of Birch
200 Bay-Lynden Road to the intersection of Bob Hall Road; thence northerly along the
201 centerline of Bob Hall Road to the intersection of Loomis Trail Road; thence easterly
202 along the centerline of Loomis Trail Road to the intersection of Glendale Road;
203 thence northerly along the centerline of Glendale Road to the intersection of West
204 Badger Road; thence westerly along the centerline of West Badger Road to the
205 intersection of Markworth Road; thence northerly along the centerline of Markworth
206 Road to the forty-ninth parallel, POB.

207
208 (Ord. 98-019 Att. C; Ord. 95-036).

209
210 **16.20.040 Revenue authority.**

211 The revenue authorities granted under Chapter 90.72 RCW shall be exercised at the discretion
212 of the board of supervisors, which shall be the county council for the operation of these
213 districts. (Ord. 98-019 Att. C; Ord. 95-036).

214
215 **16.20.045 Collection of charges or rates and exemptions.**

216 Property owners within these shellfish protection districts may be assessed charges or rates as
217 allowed by Chapter 90.72 RCW to finance the shellfish protection programs. The owner of any
218 property within a shellfish protection district which is exempt from charges or rates because
219 such property is subject to the National Pollution Discharge Elimination System as specified in
220 RCW 90.72.070 shall demonstrate such exemption annually to the county assessor. If evidence
221 of exemption is not provided, the property will automatically convert from exempt status and
222 the property will be subject to charges or rates. Land exempt from charges and rates as
223 specified in RCW 90.72.070 because of its forest land classification will automatically convert
224 from exempt status if the land classification changes and will be subject to charges or rates.
225 (Ord. 98-019 Att. C).

226
227 **16.20.050 Sunset date and dissolution of district.**

228 The Drayton Harbor shellfish protection district shall be dissolved on December 31, 2010, unless
229 specifically extended by ordinance of the county legislative authority, or upon the removal of
230 the downgrade. The Portage Bay shellfish protection district shall be dissolved and this chapter
231 repealed on December 31, 2010, unless specifically extended by ordinance of the county
232 legislative authority or upon the removal of the downgrade. These districts may also be
233 dissolved by the county legislative authority by ordinance. The county legislative authority shall
234 review the continued need for these districts four months prior to their sunset dates. (Ord. 98-
235 069; Ord. 98-019 Att. C; Ord. 95-036).

236
237 **16.20.060 Relationship with other entities.**

238 No program or activity proposed by the district shall replace or consolidate existing activities
239 performed by cities or other non-county provided water-related special purpose districts without
240 their consent. In formulating new programs, consultation and coordination shall occur with
241 cities and other water-related special districts. (Ord. 98-019 Att. C; Ord. 95-036).

243 **16.20.065** **Advisory groups.**

244 The board of supervisors shall appoint advisory committees of not more than eleven members
245 to advise on the overall operations of these districts. Two of the eleven members will represent
246 tribal interests of the Nooksack Tribe and Lummi Nation. In establishing district advisory
247 committees, all members shall have a direct interest in the district. (Ord. 98-019 Att. C; Ord.
248 95-036).

249
250 **16.20.090** **Severability.**

251 If any provision of this chapter is found to be invalid, all remaining provisions shall continue in
252 effect. (Ord. 98-019 Att. C; Ord. 95-036).