

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. 2008-397

| CLEARANCES                      | Initial    | Date     | Date Received in Council Office                                      | Agenda Date | Assigned to:   |
|---------------------------------|------------|----------|--|-------------|----------------|
| Erin E. Osborn<br>Originator:   | <i>EEO</i> | 11/5/08  | <p>RECEIVED</p> <p>NOV 18 2008</p> <p>WHATCOM COUNTY<br/>COUNCIL</p> | 11/25/08    | Introduction   |
|                                 |            |          |  | 11/25/08    | P&D, Committee |
| David Stalheim<br>Dept. Head:   | <i>DS</i>  | 11-13-08 |  | 12/09/08    | P&D/Council    |
| Royce Buckingham<br>Prosecutor: | <i>RB</i>  | 11-14-08 |  |             |                |
| Purchasing/Budget:              | <i>QBA</i> |          |  |             |                |
| Peter Kremen<br>Executive:      | <i>PK</i>  | 11-18-08 |  |             |                |

**TITLE OF DOCUMENT:** *An ordinance adopting amendments to the Official Whatcom County Zoning Ordinance, Title 20, Chapter 20.40. - to provide for the operation of wildlife rescue rehabilitation facilities in the Agriculture zoning district as a conditional use, and also amending Chapter 20.97 – Definitions to include “Wildlife Rescue Rehabilitation Facilities”.*

**ATTACHMENTS:**

- (1) Draft Ordinance
- (2) Whatcom County Planning Commission Findings of Fact and Reasons for Action, Conclusions, & Recommendation
- (3) Excerpts from Planning Commission Draft Minutes
- (4) Staff Report

SEPA review required?  Yes  NO  
 SEPA review completed?  Yes  NO

Should Clerk schedule a hearing?  Yes  NO  
 Requested Date:  
*'The Council must hold a hearing if they want to change the Planning Commission's recommendation [WCC 20.90.051(iv)].*

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

*The proposal is to amend the Official Whatcom County Zoning Ordinance, Title 20, specifically, to amend Chapter 20.40. - to provide for the operation of wildlife rescue rehabilitation facilities in the Agriculture zoning district as a conditional use, and also amending Chapter 20.97 – Definitions to include “Wildlife Rescue Rehabilitation Facilities”.*

**COMMITTEE ACTION TAKEN:**

11/25/2008: Withdrawn  
 12/09/2008: Amended & forwarded to Council for approval

**COUNCIL ACTION:**

11/25/2008: Introduced  
 12/09/2008: Council Adopted Substitute version 7-0 Ord. 2008-059

**Related County Contract #:**

**Related File Numbers:**  
 ZON2007-00011

**Ordinance or Resolution Number:**  
 Ord. 2008-059

**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:** November 25, 2008

**ORDINANCE #2008- 059**

**ADOPTING AMENDMENTS TO THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, CHAPTER 20.40 - TO PROVIDE FOR THE OPERATION OF WILDLIFE RESCUE REHABILITATION FACILITIES IN THE AGRICULTURE ZONING DISTRICT AS A CONDITIONAL USE, AND ALSO AMENDING CHAPTER 20.97- DEFINITIONS, TO INCLUDE "WILDLIFE RESCUE REHABILITATION FACILITIES"**

**WHEREAS,** Whatcom County Planning and Development Services received an application to amend the Official Whatcom County Zoning Ordinance, Title 20; and

**WHEREAS,** Legal notice requirements have been met; and

**WHEREAS,** On Thursday, September 25, 2008, the Whatcom County Planning Commission received the staff's findings and recommendations, and held a public hearing on the proposed amendment and considered all testimony; and

**WHEREAS,** On September 25, 2008, the Whatcom County Planning Commission voted to recommend approval of the proposed amendment to the Whatcom County Council; and

**WHEREAS,** The Whatcom County Council has considered the Planning Commission's Findings of Fact and Reasons for Action, Conclusions and Recommendation for the proposed amendment; and

**WHEREAS,** The amendment conforms to the requirements of the Growth Management Act, is consistent with the Goals and Policies of the Whatcom County Comprehensive Plan, the County-Wide Planning Policies, and has been evaluated for consistency with the interlocal agreements and comprehensive plans of associated cities; and

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

**FINDINGS OF FACT**

**FINDINGS OF FACT AND REASONS FOR ACTION**

1. On June 13, 2007, Whatcom County Planning and Development Services Department received an application to amend the Official Whatcom County

Zoning Ordinance that was submitted by Whatcom County Councilmember Laurie Caskey-Schreiber. The purpose of the proposed amendment was to include language in the Official Whatcom County Zoning Ordinance that allows the operation of wildlife rescue rehabilitation facilities in the Agriculture zoning district.

2. The proposed amendment was initiated to the docket by Whatcom County Council Res. 2007-034 on July 10, 2007, and was given file number ZON2007-00016 by Planning and Development Services Department.
3. Notice of the proposed amendment was sent to the Department of Community, Trade and Economic Development (CTED) and other state agencies on July 21, 2008. On July 22, 2008, CTED notified Whatcom County that notice of the proposed amendment had been received and had been forwarded to other interested parties as required. No comments regarding the proposed amendment have been received from CTED, to date.
4. On July 21, 2008, the Whatcom County State Environmental Policy Act (SEPA) Official issued a SEPA threshold Determination of Non-Significance (DNS) in regards to the proposed text amendment, a non-project action. The comment period for this determination ended on August 4, 2008. No comments were received regarding this determination. The date on which to file an appeal to this determination concluded on August 14, 2008. No appeals were made to this determination.
5. On July 21, 2008 staff met with Northwest Wildlife Rehabilitation Center board members to gain an understanding about the typical services offered by a wildlife rescue rehabilitation facility, to obtain information about permitting requirements, site requirements, the challenges of operation, and to learn about the existing capacity to serve current and future needs of displaced or injured wildlife in Whatcom County.
6. Notice of the Planning Commission hearing for the proposed text amendment was published in the Bellingham Herald on September 14, 2008.
7. Staff held collaborative discussions with Whatcom County planners to discuss the best way to appropriately permit this type of use. It was determined that the proposed use should be subject to the approval criteria of a conditional use subject to a public hearing with recommendations of approval or denial made by the hearing examiner.
8. Pursuant to Whatcom County Code (WCC) 20.90.050, as of September 25, 2008, Whatcom County Planning and Development Services has: 1) Evaluated the proposed amendment in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan as authorized by the Washington State Growth Management Act (GMA) – RCW 36.70A; 2)

Addressed consistency with interlocal planning agreements between the County and associated cities; 3) Considered whether the proposed amendment is consistent with any associated city's comprehensive plan and 4) Considered possible environmental impacts that have been identified by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) threshold determination process.

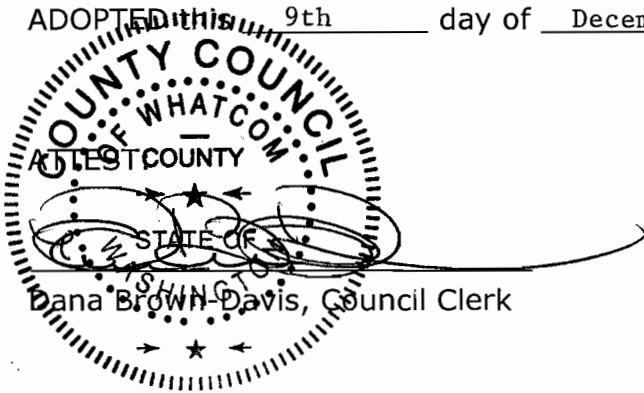
- 9. On September 25, 2008 the Whatcom County Planning Commission held a public hearing related to the proposed amendments, and after considering the information provided by staff, and after considering all testimony from the public, voted unanimously to forward a recommendation of approval to the Whatcom County Council for the proposed amendment after adding a condition that requires such facilities to be located on land that is owned by a public entity.

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

Section 1. The Official Whatcom County Zoning Ordinance, Title 20 is hereby amended as shown on Attachment A.

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 9th day of December, 2008.



Dana Brown-Davis, Council Clerk

APPROVED as to form:

*[Signature]*  
Royce Buckingham,  
Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

*[Signature]*  
Carl Weimer, Chairperson

Approved     Denied

*[Signature]*  
Pete Kremen, Executive

Date: 12-16-08

**ATTACHMENT A**

**Amendments to the Official Whatcom County  
Zoning Ordinance - Title 20**

Chapter 20.40 – Agriculture District

20.40.193 - Wildlife animal rescue hospitals and/or rehabilitation facilities including accessory enclosures thereto, such as kennels, cages, stables, aviaries, runs, and fenced pastures, to provide for the care of and management of sick, injured, displaced or orphaned wildlife provided:

In order to assure maintenance of the agricultural resource and compatibility with agricultural operations, applications made to operate wildlife rescue rehabilitation facilities in the Agriculture zoning district may only be approved if it is determined that the proposal meets the following approval requirements:

- (1) Wildlife species that are held, treated or cared for at the facility shall be native to the region.
- (2) Such facilities must at all times be properly authorized and permitted under applicable state and federal law to hold and treat wildlife.
- (3) Pursuant to WAC 232-12-275 there shall be at least one person in possession of a valid wildlife rehabilitation permit on the facility staff.
- (4) No building or animal enclosure shall be located closer than 50 feet from the external property lines.
- (5) The applicant shall provide proof that new permanent structures and soil alterations are generally located on predominantly nonagricultural soils or on the least productive portion of the property.
- (6) Such facilities must have a waste disposal program approved by the county health department.
- (7) Such facilities shall be operated at all times in a manner specifically designed to prevent the use of the facilities from becoming a nuisance, either public or private; and the hearing examiner shall require of the applicant a detailed program to minimize potential annoying effects; said program to be recorded as one of the conditions attached to the permit.

November 25, 2008

## **ATTACHMENT A**

- (8) The facility shall not adversely impact or interfere with accepted farm practices on adjacent or nearby agricultural operations, and the provisions of WCC Chapter 14.02, Right to Farm, shall apply.
- (9) The proposal must comply with the requirements of WCC 20.40.662 and WCC Title 14, Use of Natural Resources.
- (10) Mitigation measures (such as landscape buffers; special setbacks; screening; site design and using physical features such as rock outcrops, ravines, roads, irrigation canals or critical areas) shall be used to effectively reduce the potential for land use conflicts.

Chapter 20.97 - Definitions

### Wildlife Rescue Rehabilitation Facilities:

Facilities that are authorized by the State of Washington to provide treatment and care of sick, injured, displaced or orphaned wildlife, so that they may be released back into their native habitat. Wildlife species that are held, treated or cared for at the facility shall be native to the region, and care of exotic or tropical animal or bird species shall be prohibited.