

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. 2010-046

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Cathy Craver	OCZ	12/28/09	<b>RECEIVED</b>  <b>JAN 05 2010</b>  <b>WHATCOM COUNTY COUNCIL</b>	1/12/10	(Introduction)
Division Head: Oliver Grah	OLG	12/28/09		1/26/10	Public Hearing/ Council
Dept. Head: David Stalheim	rel for D.S.	12/28/09			
Prosecutor: Royce Buckingham	[Signature]	12/29/09			
Purchasing/Budget: Brad Bennett					
Executive: Pete Kremen	PK	1-5-10			

**TITLE OF DOCUMENT:**

AMENDING THE WHATCOM COUNTY CODE TITLE 20, SECTIONS 20.80.630 STORMWATER AND DRAINAGE, 20.80.734 GENERAL REVIEW THRESHOLDS, AND 20.04.076 NATIONAL POLLUTION DISCHARGE AND ELIMINATION SYSTEM (NPDES) PHASE II AREA BOUNDARY

**ATTACHMENTS:** Memo, ordinance

SEPA review required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO	Should Clerk schedule a hearing? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO
SEPA review completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO	Requested Date: 1/26/10

**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 amending Whatcom County Code Title 20 sections 20.80.636, 20.80.734, and 20.04.076 regarding stormwater management requirements, general review thresholds, and NPDES Phase II boundaries as set forth in the Western Washington Phase II Municipal Stormwater Permit for Whatcom Count.

<b>COMMITTEE ACTION:</b>	<b>COUNCIL ACTION:</b> 1/12/2010: Introduced 1/26/2010: Council Adopted 7-0 Ord. 2010-003
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<b>Related County Contract #:</b>	<b>Related File Numbers:</b>	<b>Ordinance or Resolution Number:</b> Ord. 2010-003
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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: 1/12/2010

**ORDINANCE NO. 2010-003**

**AMENDING THE WHATCOM COUNTY CODE TITLE 20, SECTIONS 20.80.630  
STORMWATER AND DRAINAGE, 20.80.734 GENERAL REVIEW  
THRESHOLDS, AND 20.04.076 NATIONAL POLLUTION DISCHARGE AND  
ELIMINATION SYSTEM (NPDES) PHASE II AREA BOUNDARY**

**WHEREAS**, in compliance with The State of Washington Water Pollution Control Law (Chapter 90.48 RCW) and the Federal Water Pollution Control Act (also known as The Clean Water Act, Title 33 United States Code, Section 1251 et seq.), discharging certain materials to Municipal Separate Storm Sewer Systems is prohibited; and

**WHEREAS**, the Washington State Department of Ecology issued the Western Washington Phase II Municipal Stormwater Permit on January 17, 2007, and Whatcom County was granted coverage; and

**WHEREAS**, Section S.5.C.4 of the Washington Phase II Municipal Stormwater Permit requires all permittees to adopt appropriate ordinances and policies for controlling runoff for new development, redevelopment and construction sites and

**WHEREAS**, Whatcom County is required to have the proposed regulations adopted by February 16, 2010; and

**WHEREAS**, the Whatcom County SEPA official issued a Determination of Non-Significance on September 21, 2009; and

**WHEREAS**, notice of the subject amendment was sent to the Department of Community, Trade, and Economic Development (CTED) and other agencies on September 15, 2009; and

**WHEREAS**, The Whatcom County Planning Commission held a public hearing on this issue on December 10, 2009; and

**WHEREAS**, RCW 36.70.795 requires the adoption of Findings of Fact to justify Council action, the Council makes the following Finding of Facts:

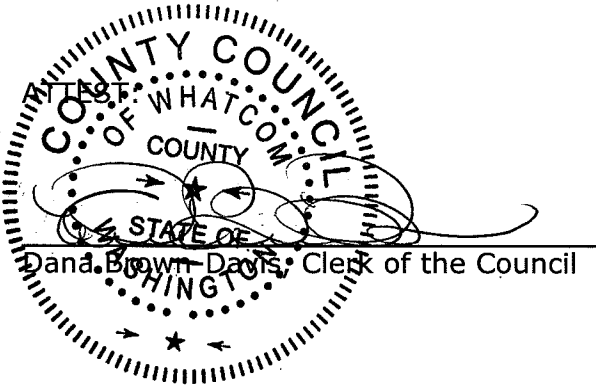
1. Notice of the subject amendment was sent to the Department of Community Trade and Economic Development (CTED) and other State agencies on September 15, 2009.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on September 21, 2009 for the subject

- 1 amendment.  
2
- 3 3. Notification of a public meeting regarding the proposed Western Washington Phase  
4 II Municipal Stormwater Permit requirements was distributed to various Whatcom  
5 County media.  
6
- 7 4. A public meeting regarding the proposed Western Washington Phase II Municipal  
8 Stormwater Permit requirements was held on October 28, 2009.  
9
- 10 5. Notice of the Planning Commission hearing on the subject text amendment was  
11 published in the Bellingham Herald on November 29, 2009.  
12
- 13 6. The Planning Commission held a public hearing on the subject text amendment on  
14 December 10, 2009.  
15
- 16 7. The Western Washington Phase II Municipal Stormwater Permit was issued to  
17 Whatcom County on January 12, 2007, with an effective date of February 16, 2007.  
18
- 19 8. The Western Washington Phase II Municipal Stormwater Permit requires the  
20 implementation of minimum performance measures to address controlling runoff  
21 from new development, redevelopment, and construction sites.  
22
- 23 9. The Western Washington Phase II Municipal Stormwater Permit requires the  
24 adoption of regulations to address controlling runoff from new development,  
25 redevelopment, and construction sites by February 2010.  
26
- 27 10. Policy 11F-4 of the Whatcom County Comprehensive Plan states to support the  
28 completion and implementation of local/state Watershed Action Plans, the Lake  
29 Whatcom Management Program, NPDES Phase II Permitting, and the WRIA  
30 Watershed Management Projects as some of the means of addressing non-point  
31 source pollution.  
32
- 33 11. GOAL 11G of the Whatcom County Comprehensive Plan states to protect water  
34 resources and natural drainage systems by controlling the quality and quantity of  
35 stormwater runoff.  
36
- 37 12. Policy 11G-9 of the Whatcom County Comprehensive Plan states to develop and  
38 administer stormwater management standards as required by the NPDES Phase II  
39 Permit.  
40
- 41 13. Action Item 30 from the Environment Chapter of the Whatcom County  
42 Comprehensive Plan states to develop a comprehensive stormwater management  
43 program designed to manage runoff from public facilities and industrial, commercial,  
44 and urban residential areas including streets and roads in compliance with NPDES  
45 requirements. Each component of the program shall cover both new and existing  
46 developments. Emphasis should be placed on controlling stormwater through source  
47 controls and Best Management Practices.  
48

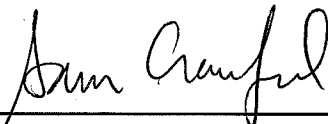
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**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that Whatcom County Code Title 20 is hereby amended as indicated in Exhibits A of this ordinance.

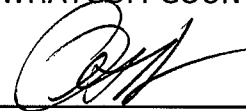
**ADOPTED** this 26th day of January, 2010 .




WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

  
\_\_\_\_\_  
Sam Crawford, Council Chair

WHATCOM COUNTY EXECUTIVE  
WHATCOM COUNTY, WASHINGTON

  
\_\_\_\_\_  
Pete Kremen, County Executive

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Civil Deputy Prosecutor

(  ) Approved      (  ) Denied

Date 1-28-10

**20.80.630 Stormwater and drainage.**

(1) All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards or the provision addressed herein, as applicable unless specifically exempted.

(2) No project permit shall be issued prior to meeting the stormwater requirements of this chapter and/or Chapter 2 of the Whatcom County Development Standards.

Advisory Note: Certain stormwater discharges to natural receiving waters are subject to State Water Quality Standards and the requirements of the National Pollutant Discharge Elimination System (NPDES). Hydraulic Project Approval (HPA) may also be required if stormwater is discharged to a water body or stream that provides, or could provide, habitat for fish.

(3) Unless other County stormwater management provisions are more restrictive all development activity within NPDES Phase II area boundaries, as delineated at the time that the county determines that the development application is complete, shall comply with the most current editions of:

- The Washington State Department of Ecology Stormwater Management Manual for Western Washington and,
- Appendix 1, Minimum Technical Requirements for new development and redevelopment, of the Western Washington Phase II Municipal Stormwater Permit and
- Appendix 7 "Determining Construction Site Sediment Damage Potential" of the Western Washington Phase II Municipal Stormwater Permit.

(Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 96-056 Att. A §§ A2, S9, 1996; Ord. 94-022, 1994).

### **20.80.631 Exemptions.**

(1) Agricultural activities as defined in this title, and forest practices regulated under WAC Title 222, except for Class IV-General forest practices and nonconversion forest practices with approved conversion option harvest plans.

(2) Development undertaken by the Washington State Department of Transportation in state highway right-of-way when regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program. (Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 94-022, 1994).

### **20.80.734 General review thresholds.**

County review and approval shall be required prior to a clearing activity when any of the following land clearing thresholds have been reached. If the clearing activity does not meet the threshold criteria, county review is not required. However, the owner is still subject to, and must comply with, the minimum requirements established in this chapter and in the Whatcom County Development Standards. Review thresholds and additional requirements for water resource special management areas are located in WCC

#### 20.80.735.

(1) **Five Thousand Square Foot Threshold on 30 Percent Slopes.** The county shall review all proposed clearing activities when a cumulative area of 5,000 square feet or greater of clearing activity is proposed to take place on slopes 30 percent or greater in gradient.

(2) **One Acre Threshold in Urban Residential, Commercial, and Rural Residential Zoning Districts and Rural and Industrial Zoning Districts within the NPDES Phase II area boundary.** The county shall review all proposed clearing activities which are one acre or greater, including projects less than one acre that are part of a larger

common plan of the development, in the following Zoning Districts where the slope is less than 30 percent in gradient:

Urban Residential

Commercial

Rural Residential

Rural within the NPDES Phase II area boundaries, as delineated at the time that the county determines that the development application is complete,

Industrial within the NPDES Phase II area boundaries as delineated at the time that the county determines that the development application is complete, when the activities are proposed to take place in Urban Residential, Commercial or Rural Residential Zoning Districts and the slope is less than 30 percent in gradient.

**(3) Two Acre Threshold in Rural Zoning Districts outside NPDES Phase II area boundaries.** The county shall review all proposed clearing activities which are two acres or greater when the activities are proposed to take place in Rural Zoning Districts outside NPDES Phase II area boundaries and the slope is less than 30 percent in gradient.

**(4) Critical Areas and Associated Areas.** The County shall review all Any clearing activities within a critical area or critical area buffer, and all ~~or any~~ clearing activity greater than 500 square feet within 200 feet of a waterbody regulated under WCC Title 23, or within 200 feet of a wetland, habitat conservation area (HCA), frequently flooded area, or geological hazard regulated under WCC Title 16.

**(5) Conversion from forest use.** The County shall review all Any clearing activities that meets the definition of a conversion from a forest use to another land use pursuant to WCC 20.97.085. (Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002)

**20.04.076 National Pollution Discharge and Elimination System  
(NPDES) Phase II Area Boundary**

Where provisions of this title refer to NPDES Phase II area boundaries, the location and extent of such boundaries shall include urbanized areas determined by the latest decennial census conducted by the U.S. Bureau of Census, or designated by the Department of Ecology pursuant to 40 CFR 123.35(b) or 40 CFR 122.26(f), and Bellingham and Ferndale urban growth areas as defined in the Whatcom County Comprehensive Plan (UGA Map #1 & 4), as referenced in the Western Washington Phase II Municipal Stormwater Permit. The county shall update the maps on a regular and consistent basis as new information becomes available.