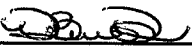


WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2009 - 135 A

CLEARANCES	Date	Date Received in Council Office	Agenda Date	Assigned To
Orig. Dept.: County Council	1/26/2010		1/26/2010	Introduction
Division Head:			2/9/2010	Introduction - Revised Version
Dept. Head: 	1/26/2010		2/16/2010	Health Committee
Prosecutor:			2/23/2010	Hearing
Budget:				
Executive:				

SUBJECT:

Ordinance amending WCC 24.05, On-Site Sewage System Regulations

ATTACHMENTS

Ordinance and Exhibit

SUMMARY STATEMENT:

Related County Contract #:	Should the Clerk schedule a hearing? (Y/N) Y	Requested Date:
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RECOMMENDED MOTION (for final action):

COUNCIL ACTION TAKEN

- 1/26/2010: Introduced (will schedule with Health Committee)
- 2/09/2010: Revised version of the ordinance introduced
- 2/16/2010: Amended
- 2/23/2010: Council Amended and Adopted 5-2, Mann & Weimer opposed
Ord. 2010-009

Related File Numbers:

Ordinance or Resolution Number (this item only):
O2010-09

PROPOSED BY: Brenner & Crawford
SPONSORED BY: Consent
INTRODUCTION DATE: February 9, 2010

ORDINANCE NO. 2010-009

**AMENDING WHATCOM COUNTY CODE 24.05, ON-SITE SEWAGE SYSTEM (OSS)
REGULATIONS, TO ALLOW FOR SELF EVALUATION OF OSS BY HOMEOWNERS**

WHEREAS, on November 21, 2006, the Whatcom County Council adopted Ordinance 2006-056, amending Whatcom County Code (WCC) Chapter 24.05, On-Site Sewage (OSS) Systems in Whatcom County; and

WHEREAS, on March 25, 2008, the Whatcom County Council adopted Ordinance 2008-015, further amending Whatcom County Code 24.05, On-Site Sewage Systems in Whatcom County; and

WHEREAS, enforcement of these regulations have shown approximately a 4% failure rate with OSS systems; and

WHEREAS, enforcement of these regulations have created costly and unplanned-for financial burdens on citizens of Whatcom County, many of whom who are responsibly using and operating fully functioning and environmentally safe OSS systems; and

WHEREAS, these regulations as currently applied and enforced blanket entire areas of the County, and eventually will include all areas of the County; and

WHEREAS, since these regulations were passed, many Whatcom County residents have experienced significant reductions in their finances due to deep recessionary conditions; and

WHEREAS, Whatcom County has not yet procured additional funding to directly assist residents with inspections and/or repairs to OSS systems like has occurred in other counties; and

WHEREAS, Whatcom County has not yet provided a low-interest loan program like those that are successfully operating in other counties; and

WHEREAS, the need for a low interest loan program was raised before passage of the current ordinance when there were ample state funds to set it up; and

WHEREAS, Whatcom County government has experienced revenue shortfalls resulting in a hiring freeze, and potential future additional personnel lay-offs; and

WHEREAS, since the passage of these OSS system regulations, additional specific land-use regulations have been adopted by Whatcom County which address additional environmental impacts of development, such as adoption of a new Shoreline Management Program; and

WHEREAS, all newly installed OSS systems are well regulated, engineered, designed, and monitored; and

WHEREAS, there is no evidence that water contamination from existing OSS systems is worsening; and

WHEREAS, as systems are repaired, upgraded, or replaced based on homeowner classes, a low interest loan program, sales of homes, OSS system owners' preference, ongoing Whatcom County Health Department complaint responses, and ongoing violation enforcement, the overall water quality of Whatcom County related to OSS systems should improve; and

WHEREAS, inspections will still be performed by homeowners according to state law; and

WHEREAS, the sale of any home in Whatcom County still requires a permitted and professionally inspected working OSS system; and

WHEREAS, complaint-driven enforcement regarding OSS systems is responsive and monitored; and

WHEREAS, observations by Health Department staff of potential violations are responsive and staff investigates each violation for compliance; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council, acting as the Whatcom County Board of Health, that the provisions of the Whatcom County Code, Chapter 24.05.160, related to evaluation and reporting of OSS systems are hereby amended as outlined in Exhibit A to this ordinance to allow for homeowner evaluations; and

BE IT FURTHER ORDAINED that Whatcom County will ensure all OSS homeowners have an opportunity to take the OSS homeowners' classes and that a low-interest loan program is set up.

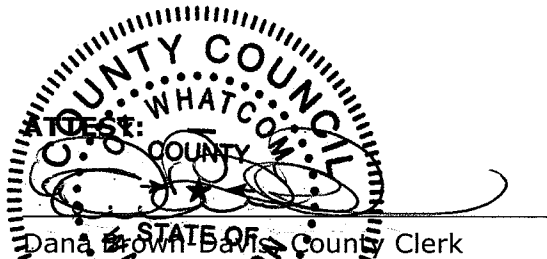
BE IT FURTHER ORDAINED that enforcement of Whatcom County Code 24.05 shall continue to include: a.) response to site-specific complaints; b.) Observed potential violations and enforcement follow-up by Whatcom County Health Department; c.) permitting and regulatory processes at the time of installation, repair, alteration, or expansion of OSS systems, or transfer of property as specified in WCC 24.05.160A 1., and WCC 24.05.160A 13.

BE IT FURTHER ORDAINED that the goals of the Washington Administrative Code 246-272A-0015 (1) (a) ["Progressively develop and maintain an inventory of all known OSS operation within the jurisdiction;"] and 246-272A-0015 (1) (g) ["Enforce OSS owner permit application, operation, monitoring and maintenance and failure repair requirements defined in WAC 246-272A-0200(1), 246-272A-0270, 246-272A-0275, and 246-272A-0280 (1) and (2);"] shall continue to be met through this amendment.

BE IT FURTHER ORDAINED, that the responsibility or obligations of OSS system owners in Whatcom County to maintain and/or repair their OSS systems in a legal and safe manner shall continue as specified in Whatcom County Code, Chapter 24.05.


BE IT FINALLY ORDAINED, that the Whatcom County Health Department shall inform existing OSS system owners who have already been notified that amendment of these requirements has occurred.

ADOPTED this 23rd day of February, 2010.



Dana Brown Davis, County Clerk


APPROVED AS TO FORM:


Civil Deputy Prosecutor

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**


Sam Crawford, Council Chair

() Approved () Denied


Pete Kremen, County Executive

Date: 2-26-10

EXHIBIT A

24.05.160 Operation and maintenance.

A. The OSS owner is responsible for properly operating, monitoring and maintaining the OSS to minimize the risk of failure, and to accomplish this purpose, shall:

1. Obtain approval from the health officer before repairing, altering or expanding an OSS;

i. All systems which were legally permitted at time of installation and which are not currently functional due to failing and/or broken component parts will be allowed to be repaired to functionality. Also see WCC 24.05.090 C.

2. Secure and renew contracts for periodic maintenance where required by the WCHD;

3. Obtain and renew operation permits if required by the WCHD;

4. Assure a complete evaluation of the system components and/or property to determine functionality, maintenance needs and compliance with this chapter and any permits. A report of system status shall be completed at the time of the evaluation and submitted to the WCHD.

5. Assure subsequent evaluations of the system components and/or property are completed as follows:

i. At least once every three years for all systems consisting solely of a septic tank and gravity SSAS;

ii. Annually for all other systems unless more frequent inspections are specified by the health officer;

6. Employ an approved pumper to remove the septage from the tank when the level of solids and scum indicates that removal is necessary;

7. Provide maintenance and needed repairs to promptly return the system to a proper operating condition;

8. Protect the OSS area and the reserve area from:

i. Cover by structures or impervious material;

ii. Surface drainage and direct drains, such as footing or roof drains. The drainage must be directed away from the area where the OSS is located;

iii. Soil compaction, for example by vehicular traffic or livestock; and

iv. Damage by soil removal and grade alteration;

9. Keep the flow of sewage to the OSS at or below the approved operating capacity and sewage quality;

10. Operate and maintain systems as directed by the health officer;

11. Request assistance from the health officer upon occurrence of a system failure or suspected system failure;

12. Ensure that a current report of system status by a licensed O&M specialist is on file with WCHD when a property with an OSS is offered for sale;

13. At the time of property transfer, provide to the buyer a copy of the current report of system status on file with the Whatcom County health department, and any available maintenance records, in addition to the completed seller disclosure statement in accordance with Chapter 64.06 RCW for residential real property transfers;

B. OSS owners may perform their own OSS evaluation in accordance with subsection C of this section except for the following:

1. OSS technologies that are listed as proprietary on the Washington State DOH list of registered on-site treatment and distribution products where the contract with the private proprietary manufacturer prohibits homeowner evaluations;

2. Community drainfields;

3. Nonconforming replacement systems that do not meet vertical and horizontal separation installed as a result of a system failure;

4. OSS serving food service establishments;

C. OSS owners who choose to perform their own evaluations, shall complete O&M homeowner training as approved by the health officer. Upon completion of training, OSS owners may perform their own evaluations until property transfer. In cases of hardship, the health officer may approve the homeowner's selection of a designee who has completed the appropriate class to perform the evaluation. If OSS owners are discovered to be noncompliant with WCC 24.05.160, the health officer may proceed with legal remedies in accordance with WCC 24.07.

D. Persons shall not:

1. Use or introduce strong bases, acids or chlorinated organic solvents into an OSS for the purpose of system cleaning;

2. Use a sewage system additive unless it is specifically approved by WDOH; or

3. Use an OSS to dispose of waste components atypical of residential wastewater.

E. The health officer shall require annual inspections of OSS serving food service establishments and may require pumping as needed. (Ord. 2008-015 Exh. A; Ord. 2006-056 Exh. A).