

**WHATCOM COUNTY**  
Planning & Development Services  
5280 Northwest Drive  
Bellingham, WA 98226-9097  
360-778-5900, TTY 800-833-6384  
360-778-5901 Fax



**J.E. "Sam" Ryan**  
Director

## Memorandum

TO: Whatcom County Agricultural Advisory Committee

FROM: Gary Davis, AICP, Senior Planner

THROUGH: Mark Personius, AICP, Assistant Director

DATE: April 5, 2017

SUBJECT: Impervious Surface and Animal Husbandry Proposals

---

There are two items coming before the Planning Commission this month that PDS staff would like to discuss with the Agricultural Advisory Committee. First, on April 13, staff will present to the Planning Commission a number of small Zoning Code amendments to make clarifications and corrections. One of these items is to add a definition of "animal husbandry" (see attached Exhibit A). The Zoning Code currently has no definition of "animal husbandry," but it uses the term in describing permitted uses in several residential, rural, and resource zoning districts, generally in conjunction with agricultural uses (see WCC 20.20.053, 20.32.054, 20.34.052, 20.36.052, 20.40.051, 20.42.052, 20.51.099, 20.20.65.057, 20.71.219). Without a definition of "animal husbandry," the term has been open to differing interpretations. The proposed amendment would add a definition of "animal husbandry" that is based on standard dictionary definitions and clarifies the term's application to domestic farm animals that are a component of, or accessory to an agricultural use.

The second item concerns a proposal to add cumulative impervious surface standards to the Zoning Code. PDS staff drafted a proposal to limit impervious surfaces as a result of the Supreme Court's *Hirst* decision, which found the County lacking in measures to protect water quality and quantity. The Growth Management Hearings Board and the Court suggested adding impervious surface limits as a measure to protect water quality.

Originally staff had proposed to the Planning Commission adding impervious surface limits to the Rural (R) and Residential Rural (RR) zoning district standards. Based on input from the public and the Planning Commission, staff presented an

alternative version at the March 9 public hearing, increasing the square footage standards, and moving the standards to the stormwater requirements in 20.80.630 where they would act as a *threshold* for requiring use of the state stormwater manual, rather than a *cap* on impervious surfaces (see page 7 of attached Exhibit B). Because the threshold would be located in the general “supplementary requirements” chapter of the code, it would be effective countywide, not just in the R and RR zones. Concerns from the public and the Planning Commission about the threshold being used in the Agriculture zone at the March 23 Planning Commission meeting prompted staff to prepare options for how or whether the threshold would apply in that zone. The Planning Commission will discuss these options at a public hearing on April 27. The options suggested at the March 23 Planning Commission meeting are:

Option 1: Return to original proposal of applying the requirements to the R and RR zones only.

Option 2: Replace the 45,000 square foot threshold for all parcels over three acres with a threshold that increases based on a percentage of the parcel size.

Option 3: Exempt agricultural uses where stormwater is managed through a farm plan.

Option 4: Exempt all parcels over 20 acres.

PDS staff would like to discuss these options with the AAC at its April 12 meeting. Please call Gary Davis at 360-778-5931 if you have questions or comments.

Attachments:

Exhibit A: Draft Animal Husbandry Amendment

Exhibit B: Draft Impervious Surface Amendment

**EXHIBIT A  
(ADDING A DEFINITION OF ANIMAL HUSBANDRY)**

**Chapter 20.97  
DEFINITIONS**

.....

**20.97.014 Animal Husbandry.**

The scientific study or practice of breeding and tending domestic farm animals. For the purpose of this definition, domestic farm animals are a component of or accessory to an agricultural use.

.....

# EXHIBIT B

## Whatcom County Code

### AMENDMENTS

---

#### TITLE 20 ZONING

.....

#### Chapter 20.32

#### RESIDENTIAL RURAL (RR) DISTRICT

.....

**20.32.656 Drainage.** ~~(Adopted by reference in WCCP Chapter 2.)~~

All development activity within Whatcom County shall be subject to the stormwater management provisions of ~~the Whatcom County Development Standards~~ WCC 20.80.630 – 20.80.635 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~~ Code.

.....

#### Chapter 20.36

#### RURAL (R) DISTRICT

.....

**20.36.656 Drainage.** ~~(Adopted by reference in WCCP Chapter 2.)~~

All development activity within Whatcom County shall be subject to the stormwater management provisions of ~~the Whatcom County Development Standards~~ WCC 20.80.630 – 20.80.635 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~~ Code.

.....

[Note: Revisions identical to the 20.36.656 revision above are made to Sections 20.34.659; 20.37.655; 20.44.652; 20.59.704; 20.60.655; 20.61.704; 20.63.654; 20.64.655; 20.67.653; and 20.69.655.]

.....

---

## Chapter 20.80

### GENERAL PROVISIONS

.....

#### **20.80.630 Stormwater and drainage.**

(1) Unless exempted in WCC 20.80.631, all development activity on lands within Whatcom County shall be subject to stormwater management requirements as follows:

(a) NPDES Phase II Permit Area. Except in the Lake Whatcom Watershed Overlay District, dDevelopment activity inside the NPDES Phase II permit area shall comply with:

(i) The 2012 Washington State Department of Ecology Stormwater Management Manual for Western Washington (Stormwater Manual), as amended;

(ii) Appendix 1, Minimum Technical Requirements, of the Western Washington Phase II Municipal Stormwater Permit; and

(iii) Appendix 7, "Determining Construction Site Damage Transport Potential," of the Western Washington Phase II Municipal Stormwater Permit.

(b) Lake Whatcom Watershed Overlay District. ~~Except for areas within or that overlap with the NPDES Phase II permit area (see subsection (1)(a) of this section),~~ All development activity inside the Lake Whatcom Watershed Overlay District shall comply with Chapter 20.51 WCC, Lake Whatcom Watershed Overlay District, which satisfies all 2013 Western Washington Municipal Stormwater Permit development and redevelopment requirements.

(c) Stormwater Special Districts. Except for areas within or that overlap with the NPDES Phase II permit area (see subsection (1)(a) of this section), development activity inside stormwater special districts (as defined by WCC 20.80.635) shall comply with the Stormwater Manual, using the following modified minimum requirements in the table below, and using the Stormwater Manual’s definitions of terms for “stormwater site plan,” “impervious surface,” “hard surface,” “land disturbing activity,” “project,” “site,” and “replaced hard surface”:

**Within Special Stormwater Districts – Modified Thresholds for Stormwater Management Table**

<b>Minimum Requirement (MR)<sup>1</sup></b>	<b>When Required</b>
MR1 Stormwater Site Plan	> 500 sq. ft. of new impervious surface, or Renovation projects where the estimated cost exceeds 50% of the assessed value
MR2 Construction SWPPP	Always required
MR3 Source Control	Not required
MR4 Preserve Natural Drainage	> 500 sq. ft. of new impervious surface, or Renovation projects where the estimated cost exceeds 50% of the assessed value
MR5 On-Site Stormwater Management	<ul style="list-style-type: none"> <li>• Property ≥ 2 acres meeting MR1, provide dispersion</li> <li>• Property &lt; 2 acres meeting MR1 where soils are suitable for infiltration, provide infiltration</li> <li>• Property &lt; 2 acres meeting MR1 where soils are not suitable for infiltration and project does not increase the 24-hour, 100-year peak flow rate by ≥ 0.1cfs; provide dispersion</li> </ul>

**Within Special Stormwater Districts – Modified Thresholds for Stormwater Management Table**

<b>Minimum Requirement (MR)<sup>1</sup></b>	<b>When Required</b>
MR6 Treatment	Always required
MR7 Flow Control	Property < 2 acres meeting MR1 where project increases the 24-hour, 100-year peak flow rate by $\geq 0.1$ cfs; provide detention
MR8 Wetlands Protection	> 500 sq. ft. of new impervious surface, or Renovation projects where the estimated cost exceeds 50% of the assessed value
MR9 O&M	Required only if stormwater facility installed

<sup>1</sup> Minimum requirements MR5 – MR9 likely require preparation by a professional engineer.

(d) Outside (i) the NPDES Phase II Permit Area, (ii) the Lake Whatcom Watershed Overlay District, and (iii) the Stormwater Special Districts. Development activity outside the NPDES Phase II permit area, Lake Whatcom Watershed Overlay District, and stormwater special districts (as defined by WCC 20.80.635) shall comply with the Stormwater Manual, using the following modified minimum requirements in the table below, the definitions for land use intensity in subsection (e) of this section, and using the Stormwater Manual’s definitions of terms for “stormwater site plan,” “impervious surface,” “hard surface,” “land disturbing activity,” “project,” “site,” and “replaced hard surface”:

**Outside the NPDES Phase II Permit Area, the Lake Whatcom Watershed Overlay District, and the Stormwater Special Districts – Modified Thresholds for Stormwater Management Table**

Minimum Requirement (MR) <sup>1</sup>	Land Use Intensity <sup>2</sup>		
	Low	Medium	High
MR1 Stormwater Site Plan	<p>≥ 7,000 sq. ft. of new plus replaced hard surface, or</p> <p>≥ 14,000 sq. ft. land disturbing activity</p>	<p>≥ 4,000 sq. ft. of new plus replaced hard surface, or</p> <p>≥ 14,000 sq. ft. land disturbing activity</p>	Per manual
MR2 Construction SWPPP	Always required		
MR3 Source Control	Not required	<p>≥ 4,000 sq. ft. of new plus replaced hard surface, or</p> <p>≥ 14,000 sq. ft. land disturbing activity</p>	Per manual
MR4 Preserve Natural Drainage	<p>≥ 7,000 sq. ft. of new plus replaced hard surface, or</p> <p>≥ 14,000 sq. ft. land disturbing activity</p>		
MR5 On-Site Stormwater Management	Not required		
MR6 Treatment	Not required		
MR7 Flow Control	Not required		
MR8 Wetlands Protection	<p>≥ 7,000 sq. ft. of new plus replaced hard surface, or</p> <p>≥ 14,000 sq. ft. land disturbing activity</p>		
MR9 O&M	Required only if stormwater facility		



**Outside the NPDES Phase II Permit Area, the Lake Whatcom Watershed Overlay District, and the Stormwater Special Districts – Modified Thresholds for Stormwater Management Table**

Minimum Requirement (MR) <sup>1</sup>	Land Use Intensity <sup>2</sup>		
	Low	Medium	High
	installed		

<sup>1</sup> Minimum requirements MR5 – MR9 likely require preparation by a professional engineer.

<sup>2</sup> See subsection (1)(e) of this section to determine land use intensity.

(e) The land use intensities in the above table have the following meanings:

**Land Use Intensity for Stormwater Management Table**

<p><i>Note: Any project that results in new plus replaced hard surface greater than or equal to 10 percent of the gross parcel size or 20,000 sq. ft., whichever is greater, <del>or</del> converts 1.5 acres of vegetation to lawn or five acres of vegetation to pasture, <u>or results in cumulative impervious surface exceeding 35% of the total parcel area (between 10,000 and 45,000 square feet)</u> is subject to the thresholds for "high intensity" land uses.</i></p>	
Low	<ul style="list-style-type: none"> <li>• Single-family residential and accessory uses on lots of record of 25,000 sq. ft. or larger;</li> <li>• Construction of agricultural buildings, including those used in the processing and wholesale of agricultural products, on agricultural land as defined by RCW 84.34.020(2);</li> <li>• Seasonal roadside stands; or</li> <li>• Roads (other than those exempt as pavement maintenance).</li> </ul>
Medium	<ul style="list-style-type: none"> <li>• Single-family residential and accessory uses on lots of record smaller</li> </ul>

	<p>than 25,000 sq. ft.;</p> <ul style="list-style-type: none"> <li>• Short subdivisions of land into four or fewer lots;</li> <li>• Minor utility developments; or</li> <li>• Trails and trailheads.</li> </ul>
High	<ul style="list-style-type: none"> <li>• All other uses, including all commercial, industrial, institutional, and urban or multifamily residential uses;</li> <li>• Subdivisions of land into more than four lots;</li> <li>• All uses on parcels bisected by the NPDES Phase II permit area boundary; <del>or</del></li> <li>• Any project that results in new plus replaced hard surface greater than or equal to 10 percent of the gross parcel size or 20,000 sq. ft., whichever is greater, or converts 1.5 acres of vegetation to lawn or five acres of vegetation to pasture; <del>or</del></li> <li>• <u>Any project on a parcel smaller than three acres that results in the parcel having a cumulative impervious surface exceeding 10,000 square feet or 35% of gross parcel size, whichever is greater; or</u></li> <li>• <u>Any project on a parcel of three acres or larger that results in the parcel having a cumulative impervious surface exceeding 45,000 square feet.</u></li> </ul>

(2) No project permit shall be issued prior to meeting the stormwater requirements of this section and/or the 2012 Washington State Department of Ecology Stormwater Management Manual for Western Washington, as amended. 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.

.....

**Chapter 20.97**

**DEFINITIONS**

.....

**20.97.187 Impervious surface.**

“Impervious surface” means a nonvegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a nonvegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered detention/retention facilities shall not be considered as impervious surfaces for purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling. The following shall not be included in the impervious surface total: roadways or driveways in public rights of way or in easements that serve neighboring properties.

---