TITLE OF DOCUMENT:
Draft Ordinance for the addition of Chapter 16.32 to the Whatcom County Code, Establishing Regulations for Fertilizer Application on Residential Lawns and Public Properties within the Lake Whatcom Watershed

ATTACHMENTS:
Proposed Ordinance

SEPA review required?  ( ) Yes  ( ) NO  Should Clerk schedule a hearing?  ( X ) Yes  ( ) NO
SEPA review completed?  ( ) Yes  ( ) NO  Requested Date: April 12, 2005

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.)

This proposed chapter is recommended by Whatcom County under the authority of the police power granted to political subdivisions of the State by Article XI, Section 11 of the State Constitution and provides for the establishment of regulations for fertilizer application on residential lawns and public properties within the Lake Whatcom watershed. This proposed ordinance will apply to the unincorporated areas within the Lake Whatcom watershed as defined by the Surface Water Delineation Boundaries in WRIA 1 – Version 3

COMMITTEE ACTION:
3/29/2005: Introduced
4/12/2005: Amended and adopted 6-0
   Nelson absent, Ord. #2005-038

COUNCIL ACTION:

Related County Contract #:  
Related File Numbers:  
Ordinance or Resolution Number: Ord. #2005-038

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.
ORDINANCE NO. 2005-038

AN ORDINANCE ESTABLISHING REGULATIONS FOR FERTILIZER APPLICATION ON RESIDENTIAL LAWNS AND PUBLIC PROPERTIES WITHIN THE LAKE WHATCOM WATERSHED

WHEREAS, Lake Whatcom is the source of drinking water for approximately half the residents in Whatcom County; and

WHEREAS, an overabundance of phosphorus has been identified as a significant factor contributing to excessive algal growth and low dissolved oxygen conditions in certain portions of the Lake at particular times of the year; and

WHEREAS, these conditions may lead to increased treatment costs for drinking water and impair other beneficial uses of the lake; and

WHEREAS, Whatcom County Council is authorized under Article XI, Section 11 of the State Constitution to restrict the use of fertilizers containing phosphorus within the Lake Whatcom watershed;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Chapter 16 is amended consistent with attached “Exhibit A”:

ADOPTED this 12th day of April, 2005.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Laurie Caskey-Schreiber, Council Chair

Pete Kremen, County Executive

Date: 5/2/05

Dam Brown-Davis, Council Clerk

Civil Deputy Prosecutor
CHAPTER 16.32
ESTABLISHING REGULATIONS FOR FERTILIZER APPLICATION ON
RESIDENTIAL LAWNS AND PUBLIC PROPERTIES WITHIN THE LAKE WHATCOM
WATERSHED

16.32.010 Authority
16.32.020 Purpose and Intent
16.32.030 Applicability
16.32.040 Definitions
16.32.050 Regulation of the Use and Application of Lawn Fertilizers
16.32.060 Exemptions
16.32.070 Annual Review
16.32.080 Enforcement
16.32.090 Severability

16.32.010 AUTHORITY. This chapter is recommended by Whatcom County under the
authority of the police power granted to political subdivisions of the state by Article XI, Section
11 of the State Constitution.

16.32.020 PURPOSE AND INTENT. The Lake Whatcom Reservoir is the source of
drinking water for approximately half of Whatcom County residents and supports multiple
beneficial uses including recreation and fisheries. These benefits enhance the environmental,
recreational, cultural, and economic resources of the area and contribute to the general health and
welfare of the public. Excess phosphorus entering Lake Whatcom has been identified as a
significant factor contributing to algal growth and low dissolved oxygen conditions in certain
portions of the lake at particular times of the year. These conditions may lead to increased
treatment costs for drinking water and impair other beneficial uses of the lake. The purpose of
this Chapter is to promote improvement in lake water quality by limiting phosphorus entering
Lake Whatcom due to the application of commercial fertilizers to residential lawns and public
properties within the Lake Whatcom watershed.

16.32.030 APPLICABILITY. This ordinance applies to the unincorporated areas within
the Lake Whatcom watershed as defined by the Surface Water Delineation Boundaries in WRIA
1 – Version 3 (Attachment).
16.32.040  DEFINITION.
For purposes of this chapter, the following terms shall be defined as stated:\(^1\):

A. "Commercial fertilizer" means a substance containing one or more recognized plant
nutrients and that is used for its plant nutrient content or that is designated for use or
claimed to have value in promoting plant growth, and shall include limes, gypsum, and
manipulated animal and vegetable manures. It does not include unmanipulated animal
and vegetable manures, organic waste-derived material, and other products exempted by
the department by rule."

B. "Department" means the department of agriculture of the state of Washington or its duly
authorized representative.

C. "Manipulation" means processed or treated in any manner, including drying to a moisture
content less than thirty percent.

16.32.050  REGULATION OF THE USE AND APPLICATION OF LAWN
FERTILIZERS.
(1) Effective April 1, 2005, no person shall apply any commercial fertilizer to residential lawns
or public agency properties within the unincorporated area of the Lake Whatcom watershed,
either liquid or granular, that is labeled as containing more than 0% phosphorus or other
compound containing phosphorus, such as phosphate, except as provided in section
16.32.060.

(2) No commercial fertilizer of any type shall be applied when the ground is frozen.

(3) No person shall apply, spill, or otherwise deposit commercial fertilizer on impervious
surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on
impervious surfaces shall be immediately and completely removed.

16.32.060  EXEMPTIONS
The prohibition against the use of commercial fertilizers under section 16.32.050 shall not apply
to newly established turf or lawn areas in the first growing season.

16.32.070  ANNUAL REVIEW
On at least an annual basis for the first five years, the County shall review water quality data and
implementation activities associated with this ordinance to determine if any changes to the
ordinance are needed. Such changes could include expanding the ordinance to include properties
and applications that are not currently included.

16.32.080  PENALTIES AND ENFORCEMENT
(1) Any person who violates any of the provisions of this chapter shall be guilty of a civil
offense and may be fined a sum not to exceed $1,000 for each offense. After a notice of
violation has been given, each day of site work in conjunction with the notice of violation
shall constitute a separate offense.

(2) The penalty provided in subsection (A) shall be assessed and may be imposed by a
notice in writing either by certified mail with return receipt requested or by personal
service to the person incurring the same. The notice shall include the amount of the

\(^1\) Definitions from Chapter 15.54, Revised Code of Washington.
penalty imposed and shall describe the violation with reasonable particularity. In appropriate cases, corrective action shall be taken within a specific and reasonable time.

(3) Within 20 calendar days after the notice is received, the person incurring the penalty may apply in writing to the county for remission or mitigation of such penalty. Upon receipt of the application, the county may remit or mitigate the penalty upon whatever terms the county in its discretion deems proper. The county’s final decision on mitigation or revision shall be reviewed by the hearing examiner if the aggrieved party files a written appeal therewith of said decision within 10 calendar days of its issuance.

(4) The prosecuting attorney may enforce compliance with this chapter by such injunctive, declaratory or other actions as deemed necessary to ensure that violations are prevented, ceased, or abated.

16.32.090 SEVERABILITY CLAUSE
If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective or invalid.