

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE** amending the Henderson Inlet Shellfish Protection District boundaries, amending the Shellfish Protection District program, and fixing rates and charges to fund an on-site sewage system operation and maintenance program.

WHEREAS, the Board of County Commissioners adopts the following findings:

1. Henderson Inlet is an important shellfish growing area in Thurston County.
2. On October 19, 2000, the Washington State Department of Health downgraded an approximately nine-acre portion of the commercial shellfish growing area in Henderson Inlet in Thurston County to a classification of “Prohibited” because of water quality degradation. In 2001, the Washington State Department of Health downgraded an additional 300 acres to conditionally approved status because of bacterial contamination in Henderson Inlet. In June 2005, an additional 49 acres were reclassified to “Prohibited” status.
3. The Washington State Department of Health determined that degradation of the Henderson Inlet water quality is primarily due to nonpoint sources of water pollution.
4. Nonpoint water pollution sources, including failing on-site sewage systems, agricultural surface water runoff, and stormwater runoff, threaten the public health.
5. Studies performed by Thurston County and the State of Washington have identified on-site sewage systems as a significant source of contamination contributing to the water pollution in Henderson Inlet.
6. On December 17, 2001 the Henderson Inlet Shellfish Protection District was created by Ordinance No. 12679, and a work program was adopted.
7. Since the Shellfish Protection District was established in 2001, additional study of topography and drainage to Henderson Inlet has provided information for refining the District boundaries.
8. The Henderson Inlet Shellfish Protection District stakeholder committee has identified the regulation and testing of on-site sewage systems to reduce their impact as a source of pollution to Henderson Inlet as the number one priority for the District.
9. A program should be implemented to regulate proper operation and maintenance of on-site sewage systems if the shellfish protection district goal of improving water quality is to be achieved in an effort to upgrade conditionally approved, restricted, and prohibited shellfish beds.

10. Proper operation and maintenance, including periodic inspection and testing, of on-site sewage systems, are necessary to identify systems that are contributing to the water pollution in Henderson Inlet and to ensure that non-failing on-site sewage systems continue to function properly.

11. An on-site sewage system operation and maintenance program will provide a means to address water quality degradation in Henderson Inlet resulting from on-site sewage systems.

12. To implement a comprehensive on-site sewage system operation and maintenance program within the Henderson Inlet Shellfish Protection District, a stable funding source is necessary.

13. RCW 90.72.070 authorizes the Board of County Commissioners to finance activities specified in the shellfish protection program through reasonable fees or rates or charges.

14. Providing financing for an on-site sewage system operation and maintenance program, to be carried out by Thurston County Public Health and Social Services Department, is consistent with the recommendations of the District stakeholders' committee.

15. The on-site sewage system operation and maintenance program funded by Shellfish Protection District charges should be administered by the Thurston County Public Health and Social Services Department in its role of regulating on-site sewage systems.

16. The fees, rates and charges for the on-site sewage system operation and maintenance program are reasonable and are established at a level necessary to fund the program.

17. Only those properties served by an on-site sewage system, or on which any portion of an on-site sewage system is located, should be charged for the on-site sewage system operation and maintenance program.

18. The boundary of the rate area for imposition of the on-site sewage system operation and maintenance charges should be limited to the portions of the Henderson Inlet Shellfish Protection District that are more likely to have an impact on water quality in Henderson Inlet.

19. The Thurston County Public Health and Social Services Department has determined that on-site sewage systems in the area south of the outlet to Long Lake are not likely to significantly contribute to bacterial pollution in Henderson Inlet due to the long retention time in the lakes. Therefore, this area should not be subject to rates and charges for the on-site sewage system operation and maintenance program.

20. The Board of Thurston County Commissioners held a public hearing on October 27, 2005.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THURSTON COUNTY hereby ordains as follows:

Section 1. District Boundaries. The Henderson Inlet Shellfish Protection District boundaries are amended to include the area shown in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 2. Work Program. The Henderson Inlet Shellfish Protection District And Nisqually Reach Shellfish Protection District Consolidated Work Program, Phase 2, section IV(A) is amended to read as follows:

Septic System Additional Work Needed:

Failed onsite sewage systems (OSS) contribute fecal coliform bacteria and other forms of harmful contamination into the Henderson Inlet and the Nisqually Reach. There is currently no adequate mechanism in place by Thurston County to monitor or control the operation and maintenance of all onsite systems. Additional work is still needed to address the contribution of bacteria by on-site septic systems including:

1. Approve the continuation of staff working on developing a Septic System Operation and Maintenance Proposal for the Henderson Inlet Watershed. Prepare appropriate documents to implement the program for consideration of adoption by the Board of Health.
2. Consider expanding the program into the Nisqually Reach District once the O&M program is implemented in Henderson Inlet Watershed.
3. With approval of an On-site Sewage System Operation and Maintenance program for the Henderson Inlet watershed in the Sanitary Code for Thurston County, Henderson Inlet Shellfish Protection District rates and charges will be an appropriate mechanism to provide a consistent funding source. Rates and charges should be established at a reasonable level to carry out an operation and maintenance program for on-site sewage systems in areas that may be contributing to the fecal coliform contamination of Henderson Inlet.

Section 3. Definitions. All terms used in this Ordinance that are defined in Article IV of the Sanitary Code for Thurston County, including Appendix A to Article IV, shall have the meanings given in the Sanitary Code.

Section 4. On-site Sewage System Operation and Maintenance Program Financing.

The Henderson Inlet on-site sewage system operation and maintenance program shall apply to the area designated as the Henderson Watershed Protection Area established as an area of special concern in Article IV of the Sanitary Code for Thurston County. The program and activities of the Henderson Inlet Shellfish Protection District to address on-site sewage system operation and maintenance of on-site sewage systems shall be financed as follows:

A. **Rates and Charges.** The following annual rates and charges shall apply to all properties served by on-site sewage systems where any portion of the wastewater system, including a building and any collection, transport, treatment or disposal component, is within the Henderson Watershed Protection Area. If portions of a single on-site sewage system, other than a Community on-site system, are present on more than one parcel, the lien for rates and charges shall only apply to the parcel where the sewage originates, as determined by the Thurston County Environmental Health Division. Each year, the rates and charges shall be determined by improvements present on the property on June 30th of the previous year.

1. For the year 2007, the following charges shall apply:
  - a. Properties with a Low Risk system shall be charged \$32.00 annually per on-site sewage system.
  - b. Properties with a High Risk system shall be charged \$87.00 annually per on-site sewage system.
  - c. Properties with a Community on-site system shall be charged \$160.00 annually per on-site sewage system for the parcel where the drainfield is located. Each parcel where a septic tank is located that is connected to the Community on-site system shall also be charged either the rate for a Low Risk system or High Risk system, as applicable.
2. For each subsequent year, the charges shall be automatically adjusted each January 1 by the percentage increase, if any, in the June Consumer Price Index for the previous year. The maximum increase shall be 3.5%. "Consumer Price Index" for the purposes of this section shall mean the Urban Wage Earners and Clerical Workers Index for the Seattle-Tacoma-Bremerton area. All adjustments to the rates and charges based on the Consumer Price Index shall be rounded to the nearest whole dollar. An alternative calculation for automatically adjusting the charges may be adopted by further action of the Board of County Commissioners.

B. **Exemptions**

1. Senior/disabled exemption. The rates and charges on any parcel owned by a person who is currently granted an exemption under RCW 84.36.381 through .385 shall be reduced by 100%.
2. Properties exempted by RCW 90.72.070:

- a. Confined animal feeding operations subject to the national pollutant discharge elimination system (NPDES) and implementing regulations.
- b. Facilities permitted and assessed fees for wastewater discharge under the NPDES.
- c. Lands classified as forest land under Chapter 84.33 RCW.
- d. Lands classified as timber land under Chapter 84.34 RCW.

**C. Collection**

1. The rates and charges authorized by this ordinance shall be included in Thurston County's property tax statements and shall be collected by the Thurston County Treasurer along with and in the same manner as property taxes are collected, including foreclosure of delinquent liens. The Treasurer may include the rates and charges on the same line of the property tax statements with the Thurston County storm and surface water utility rates and charges.
2. The rates and charges, and any interest, shall be due and payable on or before the 30th day of April and shall be delinquent after that date; however, if one-half of the rates and charges are paid on or before the 30th day of April, the remainder shall be due and payable on or before the 31st day of October and shall be delinquent after that date.

**D. Lien.** The rates and charges imposed by this ordinance shall be a lien against the property charged, which lien shall be superior to all other liens and encumbrances except general taxes and local improvement district liens and special assessments. Such liens shall be effective on January 1 of each year.

**E. Delinquent charges.** Delinquent charges shall bear interest at the rate of 12% per annum, computed on a monthly basis and shall be included with the lien for the charges.

**F. Corrections.** If the Environmental Health Division Director, or the Director's designee, determines that the rates and charges assessed against any property were incorrect based on errors in billing, incorrectly identified property or the location of the wastewater system, the rates and charges may be corrected, provided that no corrections shall be allowed more than three years after the date payment was due without delinquency. Changes in the risk level of an on-site sewage system that result in adjustments to rates and charges assessed against any property shall be prospective only and no refund shall be allowed.

**G. Sunset.** The provisions of this section, entitled "On-site Sewage System Operation and Maintenance Program Financing", as may be hereafter amended, are repealed effective December 31, 2017 unless re-enacted by the Board of County Commissioners.

Section 5.     Severability. If any term or provision of this Ordinance, or its application to any person or circumstance, is held to be invalid, illegal or unenforceable by any court or agency of competent jurisdiction, the remaining terms and provisions of this Ordinance, and the application of the provision to other persons or circumstances, shall not be affected thereby, but each remaining term and provision shall be valid and enforceable to the fullest extent permitted by law.

Section 6.     Effectiveness. This ordinance shall take effect immediately on the date adopted below.

ADOPTED: \_\_\_\_\_.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
Thurston County, Washington

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

EDWARD G. HOLM  
PROSECUTING ATTORNEY

\_\_\_\_\_  
Commissioner

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Jane Futterman  
Deputy Prosecuting Attorney

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Commissioner

