

ORDINANCE NO. 2000-03-008

AN ORDINANCE RELATING TO LAND USE CONTROLS WITHIN THE LAKE WHATCOM WATERSHED AND ADOPTING LIMITS ON IMPERVIOUS AREA, PERMITTED USES, EARTHWORK AND AMENDING ORDINANCE NO. 2000-01-002.

Whereas, Lake Whatcom is the drinking water source for the City of Bellingham and much of the surrounding community; and

Whereas, the City of Bellingham has adopted goals and policies to protect Lake Whatcom as a primary water resource; and

Whereas, water quality impacts from urban development have been detected in streams, storm drains and near shore areas of the Lake; and

Whereas, development impacts may be reduced by limiting impervious area, prohibiting certain non-compatible uses and placing seasonal limits on earthwork; and

Whereas, the Planning and Development Commission has recommended certain changes to Interim Ordinance No. 2000-01-002; and

Whereas, the recommended changes will result in a more equitable implementation of the interim controls set forth in Ordinance No. 2000-01-002; and

Whereas, findings of the City Council are attached hereto as Exhibit A;

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1.

A. Section 1 of Ordinance No. 2000-01-002 and Bellingham Municipal Code Section 20.30.040D are hereby amended as follows:

Standard Development Regulations 20.30.040 D. Open Space. A minimum of 30% of the site area shall be reserved as private open space, **except when located within the Silver Beach Neighborhood except subareas 11 and 15, the following shall apply:**

The maximum impervious area permitted for an individual lot shall be limited to the greater of 2000 sq. ft. or 15% of the total lot area. Impervious areas shall include all building and foundation footprints, hard surfacing for driveways, parking areas, patios, walk ways, sport courts and masonry landscape features. The use of graveled surfaces where underlain by soil only shall not be counted as impervious area.

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B. Bellingham Municipal Code Section 20.30.030 is further amended as follows:

B.M.C. 20.30.030 - Permitted Uses.

Except those uses shown in bold/underline below shall not be permitted when located within the Silverbeach Neighborhood, except subareas 11 and 15. Co-housing shall be a conditional use in the Silverbeach Neighborhood, except subareas 11 and 15.

A. Uses Permitted Outright. No building or land shall be used within an area designated residential single, except as follows:

- (1) Single Family Dwelling Unit with less than 5,500 square feet of total floor area. (See Conditional Uses).
- (2) Publicly Owned Parks and Playgrounds.
- (3) Private Recreation Facilities, **Recreational Vehicle Storage Lots** and/or Common Open Space (when approved by Council as part of a subdivision).
- (4) Mixed Use (where such a use is specifically listed in a neighborhood land use plan which has been designated with a “mixed” use qualifier).
- (5) Public Utilities (when located within a public right of way).
- (6) **Attached Accessory Dwelling Unit (consistent with procedures and requirements outlined in Section 20.10.035.)**
- (7) Detached Accessory Dwelling Units existing prior to January 1, 1995 (consistent with procedures and requirements outlined in Section 20.10.035).
- (8) Confidential Shelters subject to the provisions of Section 20.10.047.
- (9) Wireless Communication Facilities, subject to the provisions of Chapter 20.13.
- (10) Co-housing developments subject to the requirements of Section 20.10.048.
- (11) Community Public Facilities, subject to the provisions of Section 20.10.046, with the exception that publicly owned parks, trails and playgrounds are permitted and shall not be subject to the provisions of Section 20.10.046.

B. Conditional Uses. The following uses may be allowed if approval can be obtained based upon standards and requirements for conditional uses as specified in Chapter 20.16.

- (1) School
- (2) Church
- (3) Neighborhood Club/Activity Center
- (4) Nonconforming Use; Signage
- (5) **Golf Course Facility**
- (6) **Riding Academy**
- (7) **Medical Care Facility**
- (8) Public Utilities; other than those described in Subsection .030 A (5) above
- (9) Day Care, not to include babysitting
- (10) Service Care

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- (11) Adaptive Uses for Landmark Buildings
- (12) Day Treatment Center
- (13) Agricultural Nursery.
- (14) **Bed and Breakfast Facilities (subject to the standards found in Section 20.34.040 F 3.)**
- (15) **Single Family Residence containing 5,500 square feet or more total floor area (subject to the standards found in Section 20.16.020S.(4)).**
- (16) **Attached Accessory Dwelling Unit which exceeds 40% of the square footage of the existing single family residence, and accessory dwelling units which displace existing covered parking (subject to standards found in Section 10.16.020A(3)).**
- (17) Wireless Communication Facilities, subject to the provisions of Chapter 20.13.

C. Bellingham Municipal Code Chapter 15.42 is amended as follows:

STORMWATER ORDINANCE, B.M.C. 15.42.060 - Approval Standards

(1) Small Parcel Minimum Requirements

The following new development shall be required to control erosion and sediment during construction, to permanently stabilize soil exposed during construction, to comply with Small Parcel Requirements 1 through 5 below, and to prepare a small parcel stormwater site plan:

Special Condition:

No land clearing, grading or earthwork that results in an exposed soil area of more than 500 sq.ft. shall be permitted from October 1st through April 30th within the Silverbeach Neighborhood, except subareas 11 and 15.

- A. Individual, detached, single family residences and duplexes.
- B. Creation or addition of less than 5,000 square feet of impervious surface area where any other city permit is required.
- C. Land disturbing activities of less than 1 acre.

Section 2.

This interim regulation shall expire July 24, 2000, unless it is sooner repealed or replaced by ordinance. The Planning Commission shall consider amendments to the Land Use Chapter 20 relating to development within the City. A citizens advisory committee will be appointed to study these interim regulations and to make recommendations to the City Council.


Section 3.

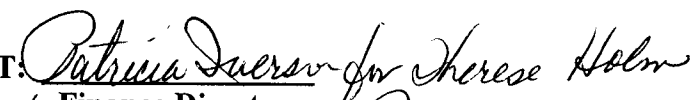
Notwithstanding the provisions of Bellingham Municipal Code Chapter 20.14, Ordinance No. 2000-01-002 and Section 1 of this ordinance, dwellings existing on the effective date of this ordinance that are more than 50% destroyed by fire or other natural disaster may be rebuilt or replaced utilizing the same impervious area as the existing dwelling, provided such rebuilding or replacement is not prohibited by any other provision of law

Passed by the Council this 27th day of March 2000.

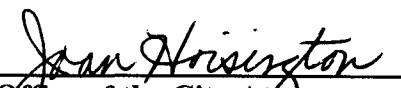

Council President

Approved by me this 11th day of ^{April} ~~March~~ 2000.


Mayor

ATTEST: 
Finance Director
Almos Finance Representative

APPROVED AS TO FORM:


Office of the City Attorney

Published 03/31/00

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BELLINGHAM CITY COUNCIL FINDINGS OF FACT
LAKE WHATCOM INTERIM ORDINANCE # 2000-03-0008
MARCH 27TH, 2000

Lake Whatcom is the primary drinking water source for approximately 66,000 people within the city and surrounding area.

Lake, stream and storm water quality monitoring studies have documented the presence of certain pollutants of concern including but not limited to excess nutrients, trace metals, fecal coliforms and fine sediment. Studies also indicate that the city portion of the lake suffers from lack of dissolved oxygen at depth during the summer period. These findings reflect the probable impacts of urbanization on water quality.

Lake Whatcom has been listed as an impaired water body by the Federal Environmental Protection Agency due to hypolimnetic oxygen deficits. This listing was proposed by the State Department of Ecology over a year prior and declared by EPA on January 27th, 2000.

Strategies that successfully reduce pollutant loading include prohibiting certain incompatible land uses, reducing potential residential density, limiting the impervious area of residential lot coverage and establishing seasonal limits on earthwork associated with development.

These selected strategies are well known and documented in the staff analysis, research literature, exhibits and bibliography presented in the City Council packets and record. These land use controls should apply to the Silverbeach neighborhood with the exception of sub areas 11 and 15. The Silverbeach Neighborhood encompasses virtually all of the Lake Whatcom Watershed within the City. Those parts of the watershed outside the Silverbeach Neighborhood within the City do not significantly contribute to the degradation of lake water quality.

The Bellingham Planning Commission held a public hearing on the interim ordinance on February 17th, 2000 and made recommendations to the City Council. The City Council held a public hearing on March 6th, 2000. Based on the public testimony received at both hearings, modifications to the interim ordinance are appropriate. Existing residential structures damaged by fire or other natural disasters should be allowed to re-build. Certain geographical areas that do not significantly contribute to the runoff entering the lake should be exempted from the ordinance.

An appropriate process for developing a final ordinance should be undertaken.