

AN ORDINANCE RESTRICTING THE USE OF PHOSPHORUS FERTILIZERS IN THE LAKE WHATCOM WATERSHED, AMENDING BELLINGHAM MUNICIPAL CODE CHAPTER 15.42.

WHEREAS, Lake Whatcom is the source of drinking water for over 87,000 people in the City of Bellingham and Whatcom County; and

WHEREAS, evidence that the water quality in the Lake is deteriorating is well documented. Since 1998, Lake Whatcom has been listed under the Federal Clean Water Act as an impaired water body for low levels of dissolved oxygen. The Department of Ecology recommends that it also be listed for high levels of phosphorus, mercury, and other pollutants; and

WHEREAS, annual source water-quality reports show increases in the amount of phosphorus in Lake Whatcom and associate the excessive phosphorus with increases in algal production and a commensurate increase in organic material in the lake; and

WHEREAS, the increased phosphorus and decreased dissolved oxygen in the Lake impact the City's ability to meet state and federal drinking water standards. Not only do these conditions increase the City's costs of treating drinking water, the increased organic material from decaying algae caused by the conditions creates treatment byproducts of concern; and

WHEREAS, phosphorus comes from commercial fertilizers and from a variety of other sources, specifically animal waste, malfunctioning septic systems, detergents used for car and boat washing, and exposed soil; and

WHEREAS, these other sources of phosphorus have various levels of regulation in the Bellingham Municipal Code (BMC) and in state law; and

WHEREAS, reducing phosphorus loading in Lake Whatcom will improve the lake's water quality by increasing dissolved oxygen levels; and

WHEREAS, prohibiting commercial phosphorus-containing fertilizers eliminates one source of phosphorus in Lake Whatcom; and

WHEREAS, the City's SEPA Official has reviewed this ordinance and related environmental checklist and has issued a Determination of Nonsignificant (DNS) environmental impact (SEP2005-00037) under the State Environmental Policy Act; and

WHEREAS, Article XI, Section 11 of the State Constitution authorizes the City to exercise its police power to protect the public health and safety by restricting the use of fertilizers containing phosphorus within the Lake Whatcom watershed;

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NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The following definitions are added to Bellingham Municipal Code Section 15.42.020. All other definitions in the section remain unchanged.

15.42.020 - Definitions

“Commercial Fertilizer” 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 un-manipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the Washington State Department of Agriculture.

“Lake Whatcom Watershed” All those lands that drain into Lake Whatcom. The terminus of the Lake Whatcom Watershed is the City of Bellingham control dam located at the juncture of Lake Whatcom and Whatcom Creek. The boundaries are shown on the map in Attachment A. Where in conflict, the definition of the watershed boundaries provided herein shall supersede the map.

“Manipulated” Processed or treated in any manner, including drying to a moisture content less than thirty percent.

Section 2. Bellingham Municipal Code Section 15.42.050 is amended as follows:

15.42.050 – General Requirements

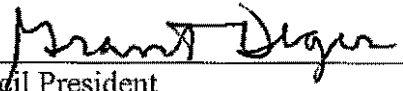
(1) – (3) Unchanged.

(4) Restrictions on Commercial Phosphorus-Based Fertilizers:

- A. No person shall apply any commercial fertilizer to residential lawns or public properties within the Bellingham city limits area of the Lake Whatcom Watershed, either liquid or granular, that is labeled as containing more than 0% phosphorus or other compounds containing phosphorus, such as phosphate, except when applied to newly established turf or lawn areas in the first growing season.
- B. No commercial fertilizer of any type shall be applied when the ground is frozen.
- C. 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.

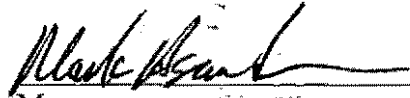
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PASSED by the Council this 6th day of June, 2005.



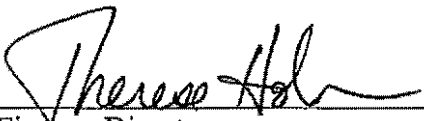
Council President

APPROVED by me this 10th day of June, 2005.



Mayor

Attest:



Finance Director

Approved as to form:



Office of the City Attorney

Published: June 10, 2005

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