

ORDINANCE NO. 2012-02-005

AN ORDINANCE OF THE CITY OF BELLINGHAM AMENDING BELLINGHAM MUNICIPAL CODE CHAPTER 15.08.250 RELATING TO WATER USE RATES AND INCREASING THE RATE TO FUND PROPERTY ACQUISITION, OTHER LAND PRESEVATION MEASURES, AND STORMWATER POLLUTION CONTROL PROJECTS IN THE LAKE WHATCOM WATERSHED.

WHEREAS, the protection of the Lake Whatcom Reservoir, the drinking water source for the City of Bellingham and half the residents of Whatcom County, is of utmost importance to the health of our citizens; and

WHEREAS, in 1998, the City's reservoir was identified by the Environmental Protection Agency as an "impaired water body" under Section 303(d) of the Clean Water Act and since that time water quality has continued to deteriorate as documented by City monitoring and study; and

WHEREAS, due to phosphorous pollution, there have been increased algae concentrations in the Lake which produce byproducts that pass through the water treatment process and, when combined with chlorine, form Trihalomethanes which are carcinogenic and have been increasing in the City's drinking water as the Lake water quality deteriorates; and

WHEREAS, phosphorous pollution in the Lake causes algae blooms which in turn may clog and foul the City's water treatment plant filters; and

WHEREAS, the City must resolutely continue the process of being a committed partner to achieve the goal of building a full protection program to restore the quality of Lake Whatcom and the City's drinking water source which must include, as a necessary condition, the need for substantially increased financial capacity; and

WHEREAS, the essential protection plan elements must include the preservation of existing water resources, the restoration of damaged riparian areas, the prevention of additional development, the elimination of existing road runoff, the retrofitting of existing private structures to infiltrate runoff, the education of homeowners and other landowners on practices that are harmful to the watershed, and a reduction in forest practices impacts; and

WHEREAS, it is the intention of the City of Bellingham to use the newly-generated funds from this increase to benefit both stormwater improvements and the land acquisition program; and

WHEREAS, watershed property acquisition provides the highest level of certainty of ongoing protection benefits by removing future development potential thereby capping the extent of the potential problem; and

WHEREAS, infiltration of nutrient laden runoff is recommended by Washington State Department of Ecology as a method of reducing phosphorus loading to the Lake; and

WHEREAS, the land acquisition program is a critical protection plan element by providing funding for land and water resource preservation which leads to a significant reduction in additional development; and

WHEREAS, increased fees should also provide funding for acquisition of parcels that will be used to infiltrate runoff from structures and/or streets, and for construction of infiltration projects on public and private land to alleviate stormwater runoff; and

WHEREAS, the Lake Whatcom Management Program developed by City, County, and Lake Whatcom Water and Sewer District staff, and adopted by their respective councils and commissioners, places a high priority on tasks that will further the implementation of a land acquisition program to protect water quality; and

WHEREAS, the City's Lake Whatcom Watershed Property Acquisition Program (the "Acquisition Program") has been involved in removing 1,554 acres (728 units) from development in the watershed with assistance from the County and the Lake Whatcom Water and Sewer District; and

WHEREAS, there remain approximately 5,500 acres (1,400 units) that can still be developed in the watershed, creating the potential for a significant increase in dwelling units in the watershed; and

WHEREAS, the increase in fees provided for in this ordinance may be used for purchasing property for capital projects and/or the design and construction of capital projects to address stormwater runoff from existing streets and residential areas; and

WHEREAS, the present surcharge of \$5 per month on City water fees generates approximately \$2,000,000 dollars per year dedicated solely to the Acquisition Program and almost all of that income is now dedicated to paying debt service on bonds for previous land acquisition, taxes, maintenance and operations expenses; and

WHEREAS, the current funding level is now inadequate to continue acquiring lands to protect the watershed and by the increase ordained by this ordinance it is the City's intention to not only re-stimulate the land acquisition program but to also make increased funds available for capital stormwater projects; and

WHEREAS, an increase in the water use rate is an appropriate funding source to benefit lake protection programs including both stormwater and acquisition efforts including, but not limited to, the timely acquisition of land, retrofitting of existing development and existing street runoff with infiltration projects, and other land preservation and pollution measures within the Lake Whatcom watershed; and

WHEREAS, the City of Bellingham will take a necessary and substantial step forward in meeting its obligation to create a watershed protection plan by adopting this ordinance; and

WHEREAS, RCW 35.92.010 and state law generally grants the City of Bellingham with the full power to regulate and control the use, distribution, and price of municipal water and to acquire by purchase any properties or privileges necessary to protect its water supply from pollution.

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Section 15.08.250 of the Bellingham Municipal Code is amended effective May 1, 2012 as follows:

15.08.250 - Water Rates and Charges

- A. [Unchanged]
- B. [Unchanged]
- C. [Unchanged]
- D.
 - 1. [Unchanged]
 - 2. [Unchanged]
 - 3. [Unchanged]
 - 4. [Unchanged]
 - 5. [Unchanged]
 - 6. The use rates shall also contain the Lake Whatcom Watershed Property Acquisition and Pollution Control Program charges as follows:
 - (a) 2012 rate: \$12.00 per month for flat rate, unmetered single-family residences.
 - (b) 2012 rate: \$24.00 per month for flat rate, unmetered duplexes.

(c) 2012 rate: \$5.00 per month plus \$0.64 per 100 cubic feet of water consumed for all metered service accounts including Untreated Industrial Water.

(d) For years 2013 through 2020, the monthly rates set forth in Section 15.08.250(D)(6)(a)-(c) for the Lake Whatcom Watershed Property Acquisition and Pollution Control Program shall be adjusted annually on January 1st for flat rate single-family residences, unmetered duplexes, and all metered service accounts including Untreated Industrial Water. The annual adjustment shall be tied to the increase/decrease in the Consumer Price Index, All Urban Consumers CPI-U, Seattle-Tacoma- Bremerton index. The adjustment shall be calculated each September for the following year based upon the preceding 12 months of data available at that time.

7. [Unchanged]

E. [Unchanged]

F. [Unchanged]

G. [Unchanged]

H. Lake Whatcom Watershed Property Acquisition and Pollution Control Program Fund Uses:

1. The charge provided for in Section 15.08.250(D)(6) shall be used to fund the following pollution control measures and their associated maintenance, operation and administrative expenses:

(a) Lake Whatcom Watershed land acquisition;

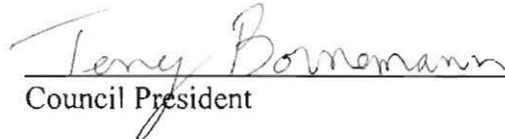
(b) Other property acquisition and land preservation measures in the Lake Whatcom Watershed, including, but not limited to, purchases of transfer of development rights, easements, restrictive covenants, and access/use rights;

(c) Capital projects and improvements, including, but not limited to, infiltration projects on public and private land in the Lake Whatcom Watershed, and

(d) Repayment and debt service on bonds or other financing instruments used to finance the pollution control measures in the Lake Whatcom Watershed.


2. The City Council shall determine the prioritization of acquisitions and other pollution control measures and shall also determine allowed uses and improvements to acquired property. Thirty percent (30%) of the revenue generated by the Lake Whatcom Watershed Property Acquisition and Pollution Control Program charge (net of operating, administrative, and debt service expenses) may be used for purchasing property for capital projects or the design and construction of capital projects to address pollution from stormwater runoff.

PASSED by the Council this 27th day of February, 2012.



Council President

APPROVED by me this 29th day of February, 2012.



Mayor

ATTEST: 

Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published:

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