ORDINANCE NO. 2012-07-034

AN ORDINANCE OF THE CITY OF BELLINGHAM TO PREVENT THE RELEASE AND SPREAD OF NONINDIGENOUS AQUATIC INVASIVE SPECIES INFESTATIONS IN THE WATERS OF THE CITY OF BELLINGHAM; ADDING A NEW BMC SECTION 12.12.280, WHICH SETS FORTH PROHIBITIONS AND PENALITIES; AND AMENDING BMC 12.12.290.

WHEREAS, the City of Bellingham has the responsibility and authority to protect the health, safety, and general welfare of the public; and

WHEREAS, Lake Whatcom Reservoir is the drinking water source for approximately half of the residents of Whatcom County and the vast majority of the City of Bellingham residents; and

WHEREAS, the City of Bellingham has adopted goals and policies to protect Lake Whatcom Reservoir as the primary water resource through Bellingham Municipal Code Chapter 16.80; and

WHEREAS, Aquatic Invasive Species pose a serious threat to the waters of Bellingham and can have a disastrous and potentially irreversible impact to the ecology, recreational use, water supply infrastructure, and water quality, of Lake Whatcom Reservoir and other waters of the City of Bellingham and the region; and

WHEREAS, Aquatic Invasive Species may disrupt the diversity and abundance of the aquatic environment by competing with and/or displacing native species of fish, plants and animals; and

WHEREAS, once Aquatic Invasive Species become established, significant resources must be expended to control the damage to property, watercraft, recreation activities, and water supply infrastructure with potentially severe economic impacts to the city; and

WHEREAS, watercraft transported from water bodies with Aquatic Invasive Species infestations to other uninfested waters are widely recognized to be the most significant pathway for the movement of Aquatic Invasive Species; and

WHEREAS, multi-faceted Aquatic Invasive Species prevention programs that include education, screening and watercraft inspection components are known to be effective in the prevention and control of the spread of Aquatic Invasive Species to uninfested water bodies; and

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WHEREAS, an Aquatic Invasive Species prevention program is necessary to reduce the risk of Aquatic Invasive Species impacts and the preservation of Lake Whatcom Reservoir and other waters of the City of Bellingham and Whatcom County; and

WHEREAS, the city has authority under RCW 35.22.280(29), RCW 35.88, and Washington State law generally to regulate and protect its water supply and other waters within its jurisdiction,

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1: A new section is hereby enacted and added to the Bellingham Municipal Code, Section 12.12.280, as follows:

BMC 12.12.280- Aquatic Invasive Species

1. Definitions
For the purpose of this section, the following definitions shall apply:

1. "Aquatic Invasive Species" shall mean and include those species classified in Washington Administrative Code (WAC) 220-12-090 as "prohibited aquatic animal species", and those plant species listed in WAC 16-752-505. For purposes of this section, WAC 220-12-090 and WAC 16-752-505, as presently constituted or as hereinafter amended, are adopted and incorporated herein by reference.
2. "Waters within the jurisdiction of the City of Bellingham" shall mean Lake Whatcom Reservoir and Lake Padden in addition to any freshwater lake, river, creek, pond, stream or wetland within the city limits of Bellingham.
3. "Enforcement Officer" includes any peace officer and any Public Officer as defined in BMC 10.24.100(E) authorized by the City to enforce the prohibitions set forth in this section.

2. Prohibitions
The transport or release of Aquatic Invasive Species into waters within the jurisdiction of the City of Bellingham is prohibited. The launching of any Watercraft or landing of any seaplane contaminated with Aquatic Invasive Species into waters within the jurisdiction of the City of Bellingham is prohibited.

3. Authorization
The City of Bellingham staff is authorized to institute an Aquatic Invasive Species education and inspection program to ensure compliance witb the above prohibitions to the fullest extent permitted by law.

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4. Inspection

Any and all motorized, non-motorized, and/or trailered Watercraft may be inspected by an Enforcement Officer prior to launching into waters within the jurisdiction of the City of Bellingham to detect the presence and prevent the transport or release of Aquatic Invasive Species.

5. Penalties

A. Any person violating this section shall have committed a civil infraction, and shall be punished by a fine not to exceed $1,000.

B. Any individual who launches Watercraft in violation of this section may be held responsible for the costs expended by the City of Bellingham or its designee for response and mitigation of impacts.

C. Payment of any penalty herein shall not relieve any individual from the responsibility of correcting the violations as found by the Enforcement Officer.

D. Any person found not in compliance with this section is subject to citation, shall be escorted off the water body, and shall be subject to any other legal action as deemed necessary by the Enforcement Officer including but not limited to detaining said person and Watercraft until inspected as required under this section.

F. Fines collected as a result of violating this section that are not otherwise encumbered, shall be used to fund the City's Aquatic Species Management and Prevention Program.

6. Applicability

The provisions of this code section shall apply in addition to the provisions of any other code provision or ordinance. Where there is a conflict, the more restrictive provision shall apply. The provisions of this section are in addition to those provisions regulating Aquatic Invasive Species as contained in Washington State law.

Section 2: BMC 12.12.270 is hereby amended as follows:

12.12.270 - Violation - Penalty

Any person who is convicted of violating or who is convicted of aiding or abetting a violation of any of the provisions of this chapter dealing with waters other than the harbor shall be punished by a fine not to exceed $500 and shall not be punished by confinement in any jail or correctional institution; provided, that violations of BMC 12.12.280 shall be punishable as

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provided in that section; and provided further, that offenses described in the following sections are classified and punishable by imprisonment in the city jail for a maximum term of 6 months or a fine of not more than $500 or by both such imprisonment and fine:

A. Section 12.12.160;

B. Subsection A of Section 12.12.170;

C. Section 12.12.200.

PASSED by the Council this 2nd day of July, 2012.

Terry Bornemann
Council President

APPROVED by me this 5th day of July, 2012.

Mayor

ATTEST:
Finance Director

APPROVED AS TO FORM:
Office of the City Attorney

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