

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. 2007 - 158

<i>CLEARANCES</i>	<i>Initial</i>	<i>Date</i>	<i>Date Received in Council Office</i>	<i>Agenda Date</i>	<i>Assigned to:</i>
<i>Originator:</i>		3/19/2007		3/27/2007	Introduction
<i>Division Head:</i>				4/10/2007	Public Hearing
<i>Dept. Head:</i>					
<i>Prosecutor:</i>					
<i>Purchasing/Budget:</i>					
<i>Executive:</i>					

**TITLE OF DOCUMENT:**

Ord. Imposing interim moratorium on new apps within Lake Whatcom Watershed

**ATTACHMENTS:**

<i>SEPA review required?</i>	( ) Yes	( ) NO	<i>Should Clerk schedule a hearing?</i>	( X ) Yes	( ) NO
<i>SEPA review completed?</i>	( ) Yes	( ) NO	<i>Requested Date:</i>	4/10/2007	

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** *(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)*

Ordinance imposing an interim moratorium on the acceptance of new applications for subdivisions within the Lake Whatcom watershed

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

3/27/2007: Introduced  
 4/10/2007: Council Adopted 5-2, Crawford & Nelson opposed Ord. 2007-021

<i>Related County Contract #:</i>	<i>Related File Numbers:</i> AB2006-172 (A & B)	<i>Ordinance or Resolution Number:</i> Ord. 2007-021
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**Please Note:** *Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).*

**SPONSORED BY: Consent**  
**PROPOSED BY: McShane**  
**INTRODUCTION DATE: March 27, 2007**

**ORDINANCE # 2007-021**

**IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR SUBDIVISIONS WITHIN THE LAKE WHATCOM WATERSHED**

**WHEREAS**, oxygen levels in Lake Whatcom are declining to lower levels and declining faster than in the past; and

**WHEREAS**, lower oxygen levels and more rapid decline in oxygen in Lake Whatcom are related to increased rates of sediment and phosphorus loading into the lake; and

**WHEREAS**, increased availability of phosphorus has limited the nitrogen availability in the lake, making the lake more susceptible to blue-green algae blooms; and

**WHEREAS**, longer durations of very low oxygen levels increase the rate of methylation of mercury and other anaerobic compounds; and

**WHEREAS**, increased productivity in the upper waters of the lake lead to increased disinfection byproducts such as total trihalomethanes (TTHMs); and

**WHEREAS**, longer durations of very low oxygen levels release phosphorus bound in the lake sediments resulting in increased availability of phosphorus and further increasing biological production in the lake;

**WHEREAS**, Washington State Department of Ecology has listed Lake Whatcom as an impaired water body and placed Lake Whatcom on the federal Clean Water Act 303(d) list because of low oxygen levels; and

**WHEREAS**, the 303(d) listing requires the establishment of a Total Maximum Daily Load (TMDL) that designates loading capacity of the lake such that there will be no measurable change in oxygen levels from natural lake conditions; and

**WHEREAS**, a TMDL requires meeting Water Quality Standards and, for lakes, the dissolved oxygen criteria is no decline from natural conditions;

**WHEREAS**, the Washington State Department of Ecology has used a decline of oxygen levels of no more than 0.2 mg/L as equivalent to natural conditions in the Lake Whatcom model for the TMDL; and

**WHEREAS**, other pollutants identified and monitored within the Lake Whatcom watershed have the highest concentrations in the most developed areas of the watershed; and

**WHEREAS**, meeting the TMDL goals and improving oxygen levels in Lake Whatcom will require variety of comprehensive planning, pollution prevention, pollution reduction and technical approaches; and

**WHEREAS**, continued development while the TMDL goals are established and while approaches for meeting those goals are developed will increase the size of the reductions and will increase the costs that will be necessary to meet the TMDL goals; and

**WHEREAS**, Lake Whatcom County Code 20.71 establishes the Lake Whatcom Watershed as a Water Resource Protection Overlay District; and

**WHEREAS**, Lake Whatcom is the drinking water source for approximately half the residents of Whatcom County; and

**WHEREAS**, the preservation and protection of drinking water is a high priority for Whatcom County; and

**WHEREAS**, Lake Whatcom County Code 20.71 establishes the Lake Whatcom Watershed as a Water Resource Protection Overlay District; and

**WHEREAS**, the Whatcom County Comprehensive Plan, adopted on May 20, 1997, establishes the Lake Whatcom watershed as a Special Study Area; and

**WHEREAS**, Lake Whatcom is a valuable recreation lake for swimming, boating and fishing, and enhances the property values in the area as long as the lake maintains high water quality; and

**WHEREAS**, declining oxygen levels poses a risk to the water quality of Lake Whatcom that could harm drinking water quality, recreational opportunities and, lake property values; and

**WHEREAS**, actions required under the 303(d) listing and TMDL goals as well as declining water quality will cause a hardship to tax payers, local property owners in the watershed and water consumers if proactive planning and programs are not established prior to the establishment of the TMDL goals; and

**WHEREAS**, the Whatcom County SEPA Official issued a Determination of Non-significance on January 24, 2005; and

**WHEREAS**, the Council makes the following findings of fact to justify its actions as required by RCW 36.70.795:

1. This interim subdivision moratorium is necessary to avoid future degradation of the Lake Whatcom watershed and the associated threat to the drinking water supply of approximately half of the citizens of Whatcom County as well as recreational and lake property values.
2. Without a moratorium additional development lots may be created within the Lake Whatcom Watershed that will lead to negative hydrologic and storm water impacts that may cause irreversible harm to Lake Whatcom and therefore cause harm to the health and welfare of the public.

3. The Whatcom County Council desires the opportunity to evaluate the impacts of future development in relation to reducing phosphorus loads to Lake Whatcom and meeting the TMDL goal of reversing the declining oxygen trends in Lake Whatcom. This evaluation may include but are not limited to the following:

- ~ Storm water management plans, implementation and maintenance.
- ~ Storm water funding in the watershed.
- ~ Review existing zoning densities and development standards within the Bellingham Urban Growth Areas in the Lake Whatcom watershed.
- ~ Storm water management in areas that cross City of Bellingham and Whatcom County jurisdiction.
- ~ Transfer of development rights.
- ~ Land acquisition.

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that a moratorium is hereby imposed on the acceptance of new applications for subdivisions in the Lake Whatcom watershed.

**BE IT FURTHER ORDAINED** that all lots that remain 5 acres or greater shall be exempt from this subdivision moratorium.

**BE IT FINALLY ORDAINED** by the Whatcom County Council that, pursuant to RCW 36.70.795, may be renewed for one or more six-month periods if subsequent public hearings and findings of fact are made prior to each renewal.

ADOPTED this 10 day of April, 2007.


The seal of Whatcom County, Washington, is circular with a star in the center. The text around the star reads "WHATCOM COUNTY WASHINGTON". Overlaid on the seal is the word "ADOPTED" in a bold, sans-serif font. The seal is partially obscured by the signature of Dena Brown Day.  
Dena Brown Day, Clerk of the Council

APPROVED AS TO FORM:

  
Karen L. Loh  
Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

  
Carl Weimer, Council Chair

  
Pete Kremen, Executive

Approved       Denied

Date: 4-12-07