

<b>CLEARANCES</b>	<b>Initial</b>	<b>Date</b>	<b>Date Received in Council Office</b>	<b>Agenda Date</b>	<b>Assigned to:</b>
Originator:		3/4/2008		3/11/2008	Introduction
Division Head:				3/25/2008	Public Hearing
Dept. Head:	<i>[Signature]</i>	3.4.08			
Prosecutor:					
Purchasing/Budget:					
Executive:					

**TITLE OF DOCUMENT:**

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

**ATTACHMENTS:**

SEPA review required?	( ) Yes	( ) NO	Should Clerk schedule a hearing?	( ) Yes	( ) NO
SEPA review completed?	( ) Yes	( ) NO	Requested Date:		

**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.)

Imposing an interim moratorium on the acceptance of new applications for divisions of land resulting in lots smaller than five acres within the Lake Whatcom watershed.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

3/11/2008: Introduced  
 3/25/2008: Council Adopted 5-2, Nelson & Brenner opposed Ord. 2008-014

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:** Ord. 2008-014

AB2007-158,158a

**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).

**ORDINANCE #** 2008-014

**IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW  
APPLICATIONS FOR DIVISIONS OF LAND RESULTING IN LOTS SMALLER THAN  
FIVE ACRES 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 methylization 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 criterion requires no decline from natural conditions;

**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

51           **WHEREAS**, continued development while the TMDL goals are established and while  
52 approaches for meeting those goals are developed will increase the size of the reductions  
53 and will increase the costs that will be necessary to meet the TMDL goals; and  
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55           **WHEREAS**, Lake Whatcom County Code 20.71 establishes the Lake Whatcom  
56 Watershed as a Water Resource Protection Overlay District; and  
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58           **WHEREAS**, Lake Whatcom is the drinking water source for approximately half the  
59 residents of Whatcom County; and  
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61           **WHEREAS**, the preservation and protection of drinking water is a high priority for  
62 Whatcom County; and  
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64           **WHEREAS**, the Whatcom County Comprehensive Plan, adopted on May 20, 1997,  
65 establishes the Lake Whatcom watershed as a Special Study Area; and  
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67           **WHEREAS**, Lake Whatcom is a valuable recreation lake for swimming, boating and  
68 fishing, and enhances the property values in the area as long as the lake maintains high  
69 water quality; and  
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71           **WHEREAS**, declining oxygen levels poses a risk to the water quality of Lake  
72 Whatcom that could harm drinking water quality, recreational opportunities and, lake  
73 property values; and  
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75           **WHEREAS**, actions required under the 303(d) listing and TMDL goals as well as  
76 declining water quality will cause a hardship to tax payers, local property owners in the  
77 watershed and water consumers and those hardships may be limited by effective planning,  
78 prevention and remediation programs established prior to the establishment of the TMDL  
79 goals; and  
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81           **WHEREAS**, the Whatcom County SEPA Official issued a Determination of Non-  
82 significance on January 24, 2005; and  
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84           **WHEREAS**, the Council makes the following findings of fact to justify its actions as  
85 required by RCW 36.70.795:  
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- 87           1.       This interim moratorium on the acceptance of applications for division of land  
88                   into lots of smaller than five (5) acres is necessary to avoid future  
89                   degradation of the Lake Whatcom watershed and the associated threat to the  
90                   drinking water supply of approximately half of the citizens of Whatcom County  
91                   as well as recreational and lake property values.  
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- 93           2.       Without a moratorium additional development lots may be created within the  
94                   Lake Whatcom Watershed that will lead to negative hydrologic and storm  
95                   water impacts that may cause irreversible harm to Lake Whatcom and  
96                   therefore cause harm to the health and welfare of the public.  
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- 98           3.       The Whatcom County Council desires the opportunity to evaluate the impacts  
99                   of future development in relation to reducing phosphorus loads to Lake  
100                   Whatcom and meeting the TMDL goal of reversing the declining oxygen trends  
101                   in Lake Whatcom. This evaluation may include but are not limited to the  
102                   following:

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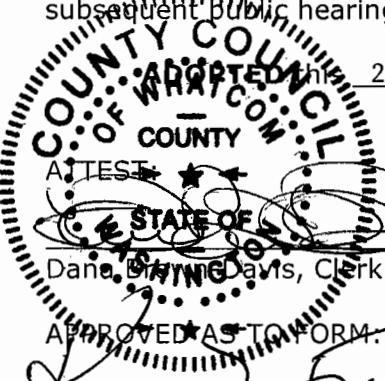
- ~ Storm water management plans, implementation and maintenance.
- ~ Storm water funding in the watershed.
- ~ Review existing zoning densities and development standards within the Bellingham Urban Growth Areas in the Lake Whatcom watershed.
- ~ Review existing zoning densities outside the Bellingham Urban Growth Areas within county jurisdiction.
- ~ Storm water management in areas that cross City of Bellingham and Whatcom County jurisdictions.
- ~ Transfer of development rights programs.
- ~ Land acquisition.
- ~ Reviewing the proposed TMDL from the Department of Ecology and its implications for additional county land use regulations .
- ~ Reviewing the ongoing monitoring studies on the Lake and its tributaries to understand the extent to which new monitoring data further informs our understanding of the relationships between development and other land use activities and Lake Whatcom water quality.

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that a moratorium is hereby imposed on the acceptance of new applications for divisions of land into lots smaller than five (5) acres in the Lake Whatcom watershed, as identified on the map attached as Exhibit A.

**BE IT FURTHER ORDAINED** that divisions resulting in lots all of which are five (5) acres or larger shall be exempt from this division moratorium.

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

ADOPTED the 25th day of March, 2008.



ATTEST:  
Dana Dwyne Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON  
\_\_\_\_\_  
Carl Weimer, Council Chair

APPROVED AS TO FORM:  
\_\_\_\_\_  
Civil Deputy Prosecutor

\_\_\_\_\_  
Pete Kremen, Executive

( ) Approved      ( ) Denied  
Date: 3-26-08

