



Whatcom County

COUNTY COURTHOUSE
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Agenda Bill Master Report

File Number: AB2019-306

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TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code Chapters 11.16, 11.20, and 11.32 to protect Lake Samish water quality and shoreline properties

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance amending Whatcom County Code Chapters 11.16, 11.20, and 11.32 to protect Lake Samish water quality and shoreline properties

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
05/21/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council
06/04/2019	Council	ADOPTED AS AMENDED	

Attachments: Ordinance, Notice of Hearing 6.4.19

Final Action: 06/04/2019
Enactment Date: 06/04/2019
Enactment #: ORD 2019-046

ORDINANCE NO. 2019-046

AMENDING WHATCOM COUNTY CODE CHAPTERS 11.16 AND 11.20 TO PROTECT LAKE SAMISH WATER QUALITY AND LAKE SAMISH SHORELINE PROPERTIES

WHEREAS, Lake Samish functions simultaneously as an important recreational resource, and as an important drinking water source for residents in the area, and

WHEREAS, Property owners around Lake Samish invest substantial resources into drinking water systems, docks, decks, and other facilities that may be harmed and degraded by excessive boat wakes, and

WHEREAS, Whatcom County maintains public roads and public facilities immediately adjacent to the shoreline of Lake Samish that could potentially be harmed and degraded by excessive boat wakes, and

WHEREAS, a relatively new class of recreational boats carrying large amounts of water for ballast (weight) are designed to displace maximum amounts of lake water around and behind the boats in order to, as one manufacture advertises, "displace all the water we can" to make "the biggest badest surf waves we want", and

WHEREAS, these vessels are operating on Lake Samish, and wakes from these boats have been observed travelling to shores of Lake Samish with force sufficient to damage private property, and

WHEREAS, the Whatcom County code currently recognizes the need to protect public health, safety, and property with regulations on the speed of vessels on Lake Whatcom, and with regulations on the manner and distance that vessels operate from the shore of Lake Whatcom, and

WHEREAS, the Whatcom County code currently recognizes that older, two-stroke boat motors are inappropriate for use on Lake Whatcom, a lake that also serves as a source for drinking water, but this provision has not been extended to Lake Samish, and

WHEREAS, the Whatcom County code currently requires that vessels towing people for waterskiing, surfing and other activities remain 300 feet from the shores of Lake Whatcom, and that vessels on Lake Whatcom must operated at six miles per hour within 300 feet of the shores of Lake Whatcom, but these provisions have not been extended to Lake Samish,

1 **NOW, THEREFORE, BE IT ORDAINED** that Chapter 11.16 of the County Code shall be
2 amended such that a six mile per hour speed limit shall apply 300 feet from the shore of Lake
3 Samish and the code is also amended to extend the no-wake zone as defined in Exhibit A to this
4 ordinance.

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6 **NOW, THEREFORE, BE IT FINALLY ORDAINED** that Chapter 11.20 of the County Code
7 shall be amended such that vessels will not operate within 300 feet from the shore of Lake
8 Samish when waterskiing and wake surfing as defined in Exhibit A to this ordinance.

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10 **ADOPTED** this, 4th day of June, 2019.

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13 ATTEST:

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15 _____
16 Dana Brown-Davis, Clerk of the Council

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18 WHATCOM COUNTY EXECUTIVE
19 APPROVED AS TO FORM:

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21 _____
22 Karen H. Frakes
23 Civil Deputy Prosecutor

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WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Rud Browne, Council Chair

WHATCOM COUNTY, WASHINGTON



Jack Louws, County Executive

Approved () Denied

Date Signed: June 12, 2019

1 **Chapter 11.16**
2 **OPERATION AND SPEED REGULATIONS**

3 Sections:

4 **11.16.010 Operation – Overloading prohibited.**

5 **11.16.020 Operation – Right-of-way rules.**

6 **11.16.030 Speed regulations.**

7 **11.16.010 Operation – Overloading prohibited.**

8 It is unlawful for any vessel to be loaded with passengers or cargo which exceed the safe-carrying
9 capacity of the vessel where the safe-carrying capacity of the vessel is specified by the manufacturer.

10 Such limitation shall be considered the maximum safe load, and in no event shall a vessel be loaded
11 beyond a capacity which is reasonable and prudent under given atmospheric conditions and other actual
12 and potential hazards affecting operation. (Ord. 90-83 (part)).

13 **11.16.020 Operation – Right-of-way rules.**

14 The operation rules as between vessels are provided as follows:

15 A. When two vessels are approaching each other head on, or so nearly so as to involve the risks of
16 collision, each boat shall bear to the right and pass the other boat on its left side.

17 B. One vessel may overtake another on either side but shall grant the right-of-way to the overtaken boat.

18 C. When two vessels are approaching each other obliquely or at right angles, the boat approaching on
19 the right side has the right-of-way.

20 D. A vessel underway must yield the right-of-way to a craft not underway.

21 E. A motor-powered vessel underway must yield the right-of-way to a sailboat, rowboat, canoe, or other
22 vessel not propelled by a motor.

23 F. A seaplane underway shall yield the right-of-way to all other vessels.

24 G. A swimmer including a person on a flotation device, or a fallen skier, has the right-of-way over any
25 craft.

26 H. No vessel shall approach within 50 feet of a diver's flag indicating the presence of a person operating
27 under water.

1 I. All vessels shall reduce speed and, if necessary, stop and, in any event, yield the right-of-way upon the
2 approach of an emergency vessel. (Ord. 90-83 (part)).

3 **11.16.030 Speed regulations.**

4 A. Speed Limits. No vessel shall exceed the following speeds, except as provided in Chapter 11.36 WCC:

5 1. Within 100 feet of a swimmer, six miles per hour;

6 2. Within 150 feet from docks, floats, or the shoreline on every lake except Lake Whatcom and
7 Lake Samish where the distance shall be 300 feet from docks, floats, or the shoreline (except when
8 necessary for a safe take off as defined in WCC 11.20.010(C)), six miles per hour;

9 3. Within 100 feet of any vessel not propelled by a motor, six miles per hour;

10 4. One-half hour after sunset to one-half hour before sunrise, eight miles per hour;

11 5. During daylight hours in unrestricted areas, 40 miles per hour;

12 6. Within 300 feet of any public boat launch, six miles per hour;

13 7. Within South Bay Lake Whatcom south of a line approximately as defined as extending from 48°
14 40' 48" N, 122° 18' 49" W to 48° 40' 43" N, 122° 18' 36", shall be designated as a "no-wake" zone.

15 8. Within Lake Samish the area between county bridge No. 107 (bridge located south of, and
16 adjacent to, Lake Samish Park) and the North-South line of 122° 24'00" West shall be designated
17 as a "no-wake" zone.

18 B. Due Care and Caution Required. Compliance with the speed regulations contained herein shall not
19 relieve the operator of any vessel from the further exercise of due care and caution as circumstances
20 shall require. (Ord. 2004-036 § 1; Ord. 2002-027; Ord. 90-83 (part)).

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1 **Chapter 11.20**
2 **WATER SKIING, SWIMMING AND SKIN DIVING**
3 **REGULATIONS**

4 Sections:

5 11.20.010 Water skiing.

6 11.20.020 Swimming.

7 11.20.025 Floatation devices on the South Fork of the Nooksack River.

8 11.20.030 Skin diving.

9 11.20.010 Water skiing.

10 A. Age Requirements. No vessel which has in tow or is otherwise assisting a person on water skis,
11 aquaplane, surfboard, innertube or similar contrivances, shall be operated unless such vessel is occupied
12 by at least two persons, one at least the age of 16 years, and one of at least eight years of age who shall
13 be observer or ski-tender in addition to the operator; provided that this prohibition shall not apply to
14 vessels used in duly authorized ski tournaments.

15 B. Intoxication Prohibited. No person shall ride or manipulate any water skis, aquaplane, surfboard,
16 innertube or similar contrivance while in tow, or being assisted by a vessel, when such person is under
17 the influence of intoxicating liquor or drugs to a degree which renders said person incapable of safely
18 riding or manipulating such a contrivance.

19 C. Distance from Shoreline. Except on safe takeoffs and safe landing, vessels and persons under tow on
20 water skis, aquaplane, surfboard, innertube or a similar contrivance, and vessels being utilized to displace
21 water for the purpose of surfing or wakesurfing or similar activities that produce wakes for surfing must
22 keep 150 feet or more from the dock, float, or shoreline except for Lake Whatcom and Lake Samish
23 where the distance shall be 300 feet from the shore, dock or float. A takeoff will not be considered "safe"
24 unless the person(s) under tow are heading away from the shore and the takeoff can be accomplished
25 without any risk to swimmers or vessels. The person(s) under tow, but not the vessel, may come within
26 150 feet of the shoreline when in the process of landing, provided that the return to the shore must be at
27 any angle of 45 degrees or more to the shoreline.

28 D. Other Vessels. No vessel shall follow behind a skier closer than 300 feet, not cross the towing boat
29 bow by less than 200 feet, nor alongside a skier closer than 100 feet.

1 E. Personal Flotation Devices Required. Any person on water skis, aquaplane, surfboard, innertube or
2 similar contrivance shall wear about his body a type I, II, or III personal flotation device as defined and
3 required by the U.S. Coast Guard.

4 F. Conduct. Any person on water skis, aquaplanes, surfboards, innertubes, or similar contrivances shall
5 conduct himself upon the same in a careful and prudent manner, and shall remain at all times a
6 reasonable and prudent distance from other persons and from the property of others, and shall not come
7 within 100 feet of a swimmer or any other vessel.

8 G. Hours. No vessel shall have in tow or shall otherwise assist a person on water skis, aquaplane,
9 surfboard, innertube or a similar contrivance from one-half hour after sunset to one-half hour before
10 sunrise; provided, that this subsection shall not apply to vessels engaged in duly authorized water ski
11 competitions or expositions.

12 H. Pattern. All boats towing skiers shall go in a counterclockwise pattern.

13 I. Public Boat Launches. No drop-off or take-off of skier or having a person in tow within 300 feet of public
14 boat launch.

15 J. Skier Down Flags. When your skier is in the water the observer must display a red or orange "skier
16 down" flag. This flag must be 12 inches square and mounted on a two-foot pole. (Ord. 90-83 (part)).

17 **11.20.020 Swimming.**

18 No person shall swim or operate a paddleboard, innertube, rubber raft or similar unlicensed device except
19 in restricted swimming areas or within a distance of 150 feet from the shore, unless the swimmer is
20 accompanied by a vessel. (Ord. 90-83 (part)).

21 **11.20.025 Floatation devices on the South Fork of the Nooksack River.**

22 No person shall operate a paddleboard, innertube, inflatable floatation device, foam floatation device,
23 limb-propelled floatation device, or rubber raft intended for limb use on the section of the South Fork of
24 the Nooksack River between Edfro Creek and the Acme Bridge between the dates of June 1st and
25 October 31st. The provisions of this section shall not apply to:

26 A. Devices engaged principally in commercial operations constituting an act of interstate or foreign
27 commerce or bona fide scientific research;

28 B. Use for emergency purposes when there is reasonable belief that such use is necessary to protect or
29 preserve persons, animals or property;

1 C. Use by law enforcement agencies to enforce the above provisions;

2 D. Department of Natural Resources-designated and Whatcom County-designated swimming/boating
3 areas on the South Fork of the Nooksack River. (Ord. 2005-089 Exh. A).

4 **11.20.030 Skin diving.**

5 A. No person shall operate (swim, float or walk) under water with the aid of any artificial device such as
6 snorkel or self-contained underwater breathing apparatus (scuba) beyond 100 feet from the shoreline
7 unless closely accompanied by a boat displaying a diver's flag or unless marked by a diver's flag above
8 the water surface and above the operator's position in the water.

9 B. The underwater operator shall keep within a 50-foot horizontal radius of the diver's flag at all times.

10 C. No person shall display any diver's flag except during the period a person is operating under water
11 within the vicinity of the diver's flag.

12 D. Separate diver's flags shall be displayed for each person so operating under water.

13 E. No person shall operate under water, except with a permit issued at the discretion of the sheriff's
14 department, within a 300-foot horizontal radius of any boat ramp or landing wharf of any boat marina, nor
15 shall such person operate within a 100-foot horizontal radius of any platform normally used for diving.
16 (Ord. 90-83 (part)).