

ORDINANCE NO. 2020-

AMENDMENT TO WHATCOM COUNTY CODE 16.30
LAKE WHATCOM STORMWATER UTILITY SERVICE AREA REGARDING
CLARIFICATION OF REQUIREMENTS OF CAPITAL FACILITES CHARGES

WHEREAS, RCW 36.89.080 authorizes a charge for the furnishing of service to both those who are receiving or will receive benefits from stormwater control facilities and programs and to those who are contributing to an increase in surface water runoff; and,

WHEREAS, the Lake Whatcom Stormwater Utility Service Area was adopted with Ordinance 2017-076 to include the entire unincorporated Lake Whatcom watershed; and,

WHEREAS, on July 23, 2019 the Council adopted ordinance 2019-053 authorizing for the furnishing of service to those who are receiving or will receive benefits from stormwater control facilities or programs and who are contributing to an increase in surface water runoff in the Lake Whatcom Stormwater Utility Service Area; and,

WHEREAS, the Council put implementing WCC section 16.30.120 Capital Facilities Charge on hold until January 1, 2021 to provide staff time to modify the original language and establish an internal process for processing CFCs; and,

WHEREAS, staff have completed the proposed modifications to the existing language and have established an internal process for CFCs.

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NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Whatcom County Code 16.30.050 and 16.30.120 are amended to include changes regarding capital facilities charges as included in **Exhibit A** of this ordinance.

Section 2. Challenges to the validity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 3. This ordinance shall become effective upon approval by Council.

ADOPTED this ____ day of _____, 20____.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

CQ/Emailed/BB9-16-2020

Christopher Quinn, Senior Civil Deputy
Prosecuting Attorney

Satpal Singh-Sidhu, County Executive

() Approved () Denied

Date Signed: _____

EXHIBIT A

CHAPTER 16.30
LAKE WHATCOM STORMWATER UTILITY SERVICE AREA

16.30.050 Definitions

For the purposes of this Chapter, the words or phrases below shall have the following meanings:

- (1) "County" means Whatcom County, or as indicated by the context, may mean the Department of Public Works, Public Works Director, County Engineer, or other employee or agent representing the County in the discharge of his or her duties.
- (2) "County Council" means the Whatcom County Council, which is the legislative branch of Whatcom County government.
- (3) "County roads" means public rights-of-way, excluding State roads, in the unincorporated areas served by the LWSU.
- (4) "Developed parcel" means a parcel of real property which has been altered by impervious surface coverage.
- (5) "Enterprise fund" means a fund established to account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges. As such, enterprise funds must report actual financial position and results of operations, such as actual assets, liabilities, fund equity balances, revenues, expenditures, and expenses.
- (6) "Equivalent service unit" (ESU) means ~~a configuration of impervious surface estimated to contribute an amount of runoff to the County's stormwater management system which is approximately equal to that created by the average single-family residential developed parcel in the service area.~~ the amount of runoff a development contributes to the County's municipal separate storm sewer system (MS4) as defined by square footage of impervious surface or approximately equal to the impervious surface created by the average single-family residential developed parcel as recommended by the Western Washington Stormwater Management Manual for runoff modeling.
- (7) "Forestland" or "Timberland" means forestland or timberland parcels on lands taxed as forestland under chapter 84.33 RCW or as timberland under chapter 84.34 RCW (including forest roads and or any roads on

1 lands taxed as forestland under chapter 84.33 RCW or as timberland
2 under chapter 84.34 RCW).

3 (8) ~~“Impervious surface” means hard surfaced areas which prevent or retard~~
4 ~~the entry of water into the soil mantle and/or cause water to run off the~~
5 ~~surface in greater quantities or at an increased rate of flow than under~~
6 ~~natural conditions. Common impervious surfaces include, but are not~~
7 ~~limited to: rooftops, concrete or asphalt roads, sidewalks and paving,~~
8 ~~walkways, patio areas, driveways, parking lots or storage areas and~~
9 ~~gravel, hard-packed dirt, oiled or other surfaces which similarly impede the~~
10 ~~natural infiltration of surface water or runoff patterns existent prior to~~
11 ~~development. A non-vegetated surface area which either prevents or~~
12 ~~retards the entry of water into the soil mantle as under natural conditions~~
13 ~~prior to development. A non-vegetated surface area which causes water to~~
14 ~~run off the surface in greater quantities or at an increased rate of flow from~~
15 ~~the flow present under natural conditions prior to development. Common~~
16 ~~impervious surfaces include, but are not limited to, roof tops, walkways,~~
17 ~~patios, driveways, parking lots or storage areas, concrete or asphalt~~
18 ~~paving, gravel roads, packed earthen materials, and oiled, macadam or~~
19 ~~other surfaces which similarly impede the natural infiltration of stormwater.~~
20 Open, uncovered retention/detention facilities shall not be considered as
21 impervious surfaces for the purposes of determining whether the
22 thresholds for application of Minimum Requirements are exceeded. Open,
23 uncovered retention/detention facilities shall be considered impervious
24 surfaces for purposes of runoff modeling.

25 (9) “Manager” means the Public Works Director or his/her designee.

26 (10) “Municipal separate storm sewer system (MS4)” means a conveyance or
27 system of conveyances (including roads with drainage systems, municipal
28 streets, catch basins, curbs, gutters, ditches, manmade channels, or storm
29 drains

30 (11) “Other Developed Parcel” means a parcel that contains impervious
31 surface area and is not a single-family residence, including but not limited
32 to, commercial, industrial, multi-family apartment, and public property.

33 (12) “Parcel” means the smallest separately segregated unit or plot of land
34 having an identified owner, boundaries and surface area which is
35 documented for real property purposes and a tax account number
36 assigned by the Whatcom County Assessor-Treasurer.

37 (13) “Private roads” means a road which is on private property and is
38 maintained with private funds and requires a name per WCC 12.60.050.

39 (14) “Service charge” means the fee in an amount to be determined by
40 applying the appropriate rate to a particular parcel of real property based
41 upon factors established by this Chapter.

- 1 (15) "Single-family residence" means a residential structure designed
2 exclusively for occupancy by one family, including but not limited to mobile
3 homes, cabins and duplex units, as defined by the Whatcom County Land
4 Use and Development Code.
- 5 i. "Small single-family residential footprint" means a parcel containing
6 a single-family residence that has less than or equal to 2,500
7 impervious square feet.
- 8 ii. "Medium single-family residential footprint" means a parcel
9 containing a single-family residence with more than 2,500
10 impervious square feet and less than or equal to 8,400 impervious
11 square feet.
- 12 iii. "Large single-family residential footprint" means a parcel containing
13 a single-family residence with more than 8,400 impervious square
14 feet.
- 15 (16) "Undeveloped parcel" means any parcel of real property which has not
16 been altered by construction of any structure or other impervious surface
17 area.
- 18 (17) "Unit rate" means the dollar amount charged per ESU.
- 19 (18) "WSDOE" means the Washington State Department of Ecology.

20
21 **16.30.120 Capital Facilities Charge**

22
23 The County Council shall establish from time to time, by ~~resolution~~ ordinance, the
24 unit rate per ESU for a one-time, capital facilities charge (CFC) applicable to: ~~new~~
25 ~~development, expansion, or densification of existing development.~~

26
27 A. Single-family Residential Parcels. ~~that are being developed would pay the CFC~~
28 ~~equal to one ESU when developing a new single-family residence. New single-~~
29 ~~family dwelling units shall pay a CFC equal to one ESU. The CFC fee is required~~
30 ~~at the time of approved project permit authorizing construction.~~

31
32 B. Other Developed Parcels. ~~would pay the CFC rate times the number of ESUs on~~
33 ~~the parcel as determined by County approved site plan (Binding Site Plan) when~~
34 ~~constructing a new development or when the expansion or densification of~~
35 ~~existing development results in additional ESUs being assessed to the property.~~
36 ~~New or additional ESUs shall pay the CFC rate times the number of ESUs. The~~
37 ~~CFC fee is required at the time of the approved project permit authorizing~~
38 ~~construction. No CFC is required for redevelopment or expansion if the total of~~
39 ~~new and replaced impervious surface does not cause the existing number of~~

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ESUs to increase, or if the entire project is replaced or redeveloped existing impervious surface.