

SPONSORED BY: _____
PROPOSED BY: _____
INTRODUCTION DATE: _____

ORDINANCE NO. _____

AMENDING WHATCOM COUNTY CODE CHAPTER 2.27A TO PREVENT THE RELEASE AND SPREAD OF AQUATIC INVASIVE SPECIES.

WHEREAS, the County has authority under Washington State law to protect the health, safety, and general welfare of the public, to regulate and protect waters within its jurisdiction, and to control the transport and release of Aquatic Invasive Species,

WHEREAS, Lake Whatcom and Lake Samish are the drinking water sources for approximately half of the residents of Whatcom County and the vast majority of the City of Bellingham residents; and

WHEREAS, Whatcom County has adopted goals and policies to protect Lake Whatcom, Lake Samish and other freshwater lakes and streams; and

WHEREAS, Aquatic Invasive Species pose a serious threat to the waters of Whatcom County and can have severe impacts to ecology, water quality, water supply infrastructure, and recreational use; and

WHEREAS, watercraft transported from water bodies with Aquatic Invasive Species to uninfested waters are the principal cause of new infestations; and

WHEREAS, prevention programs that include education, screening, and watercraft inspection are effective in preventing the spread of Aquatic Invasive Species to uninfested water bodies; and

WHEREAS, an Aquatic Invasive Species prevention program is necessary to reduce the risk of Aquatic Invasive Species infestation and related impacts at Lake Whatcom and other waters of Whatcom County; and

WHEREAS, Whatcom County has authority under RCW 36.32.120 and Washington State law generally to regulate and protect its water supply and other waters within its jurisdiction; and

WHEREAS, Whatcom County adopted Ordinance 2012-034 in September 25, 2012, codified at WCC Chapter 2.27A, to prevent the release and spread of Aquatic Invasive Species into waters of Whatcom County; and

WHEREAS, it is in the best interests of Whatcom County to amend WCC Chapter 2.27A to further define and enhance its Aquatic Invasive Species detection and prevention program, including the adoption of mandatory inspection and permitting requirements for watercraft in Whatcom County;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code 2.27A is hereby deleted in its entirety and replaced with the following, adopted as set forth in Exhibit A, attached hereto.

ADOPTED this _____ day of _____ 2019.

ATTEST


WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON



Civil Deputy Prosecutor

Jack Louws, County Executive

() Approved () Denied

Date Signed: _____

Exhibit A

WCC Chapter 2.27A Aquatic Invasive Species

2.27A.010 Definitions

For the purpose of this chapter, the following definitions shall apply:

A. "Authorized Inspector" means a person who has received the necessary training approved by Whatcom County and authorized to inspect Watercraft to detect the presence of aquatic invasive species.

B. "Aquatic Invasive Species" and "AIS" shall mean an aquatic species that is: (i) nonnative to public water bodies located in unincorporated areas of Whatcom County; and (ii) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. and include "Aquatic Invasive Species" and "AIS" shall include but not be limited to those species classified in Washington Administrative Code (WAC) 220-12-090 as "prohibited aquatic animal species", and those plant species listed in WAC 16-752-400-415; 505; and 610. For purposes of this chapter, WAC 220-12-090 and WAC 16-752-400-415; 505; and 610, as presently constituted or as hereinafter amended, are adopted and incorporated herein by reference.

C. "Enforcement Officer" includes any Authorized Inspector and any peace officer with jurisdiction in Whatcom County, ~~and the County Noxious Weed Coordinator or his or her designee, to enforce the prohibitions set forth in this chapter.~~

D. "Inspection" means an inspection of a Watercraft or other vessel conducted by an Authorized Inspector for the purpose of detecting Aquatic Invasive Species and preventing their transport and release into any Public Water Body. Inspections may consist of questioning as well as a visual and tactile search of the exterior and interior of the Watercraft or other vessel, including but not limited to the hull, trailer, motor, propeller, bilge pump, compartments, bait well, ballast tank, bladder, and all areas of standing water.

E. "Inspection Seal" means a cord or tether installed by an Authorized Inspector in a manner that connects a Watercraft to its trailer for the purpose of indicating that the Watercraft has passed inspection, has not entered a water body since passing Inspection, and, therefore, may launch without further Inspection when returning to the same water body so long as the Inspection Seal is intact at the time of launch.

F. "Launch" means any act that places or attempts to place a Watercraft into a Public Water Body.

G. "Public Water Body" shall mean Lake Whatcom, Lake Samish, Baker Lake, Tennant Lake, Lake Terrell, Wisner Lake, Silver Lake, Toad Lake, Squalicum Lake, Reed Lake, Cain Lake and all other freshwater lakes and streams in unincorporated areas of Whatcom County where Watercraft have access.

G.H. "Motorized Propulsion System" shall mean any mechanism or system used to generate thrust to move a watercraft across water, including but not limited to outboard motors, inboard motors, jet motors, and inboard/outboard motors.

H.I. "Watercraft" shall mean any type of vessel, boat, or craft capable of being used as a means of transportation on water, including but not limited to motor boats, sail boats, row boats, kayaks, canoes, barges, and all associated equipment, including trailers, that routinely or reasonably could be expected to contain or come into contact with water. The term "Watercraft" specifically excludes the following: surf boards, paddle boards, and kite boards; and non-motorized inflatables that are 10 feet or less in length. "Watercraft" shall consist of the following categories:

- (1) "Class A Watercraft" shall mean any vessel that ~~has a motorized propulsion system~~ ~~or~~ requires registration by the State of Washington Department of Licensing under RCW 88.02 and WAC 308-93-030 and any vessel registered under the laws of a state other than Washington State or a country other than the United States.
- (2) "Class B Watercraft" shall mean any vessel that has a Motorized Propulsion System that does not require registration by the State of Washington Department of Licensing under RCW 88.02 and WAC 308-93-030 or under laws of a state other than Washington State or a country other than the United States.
- (3) "Class B-C Watercraft" shall mean vessels that do not have a Mmotorized ~~propulsion Propulsion system-System~~ and do not require registration by the State of Washington Department of Licensing under RCW 88.02 and WAC 308-93-030.

2.27A.020 Prohibitions

The following activities are prohibited:

- A. The transport or release of Aquatic Invasive Species into a Public Water Body.
- B. Launching, operating or keeping on a Public Water Body a Watercraft that has not submitted to Inspection and decontamination as required by this chapter.
- C. Launching, operating or keeping on a Public Water Body a Watercraft without a current AIS Permit as required by WCC 2.27A.050, below.

2.27A.030 Inspection and Decontamination.

- A. Inspections shall be required of:
 - i. All Watercraft prior to its first launch onto Lake Whatcom or Lake Samish in each calendar year; and
 - ii. All Watercraft prior to its first launch onto Lake Whatcom or Lake Samish after it has entered any fresh water body located outside Whatcom County, Washington; and

- iii. All Watercraft prior to each and every launch onto a Public Water Body from a public access point for which an AIS check station is operating under this chapter, except Watercraft bearing an intact Inspection Seal.
- B. Exemptions. Watercraft inspections and the associated fees shall not be required for:
- i. Law enforcement and emergency response watercraft.
 - ii. Watercraft involved in search and rescue operations or training.
- C. Inspection and Decontamination Services
- i. Whatcom County may establish and operate AIS check stations at public access points to Public Water Bodies.
 - ii. Whatcom County may, upon request by an owner or operator of a Watercraft, conduct an Inspection on private property owned by the Watercraft owner or operator.
 - iii. All AIS check stations operating under this chapter shall be marked by signs and staffed by one or more Authorized Inspectors. AIS check stations authorized by this chapter shall be subject to hours of operation and other program requirements established by the Director of Public Works or his designee.
 - iv. If, upon Inspection, an Authorized Inspector determines that a Watercraft is not contaminated with Aquatic Invasive Species, then said Watercraft shall be permitted to launch, subject to payment of fees authorized in WCC 2.27A.050.
 - v. If, upon Inspection, an Authorized Inspector reasonably suspects that a Watercraft or any other vessel is contaminated with Aquatic Invasive Species, the Authorized Inspector may decontaminate the watercraft on site or direct the Watercraft owner or operator to a decontamination station where the Watercraft will undergo a decontamination process. Following decontamination, the Watercraft owner or operator shall not launch the Watercraft onto a Public Water Body until the Watercraft has been re-inspected and approved for launch by an Authorized Inspector.
 - vi. A Watercraft owner or operator may refuse to stop and consent to Inspection at any AIS check station authorized by this chapter; provided, if any Watercraft owner or operator refuses to stop and consent to Inspection at an AIS check station authorized by this chapter, then said owner or operator shall not launch his or her Watercraft from said location and shall be in violation of this chapter if he or she nevertheless attempts to do so.

2.27A.040 Safe Harbor

Any person who voluntarily stops and consents to Inspection at an AIS check station or other inspection station and cooperates in the decontamination process shall not be subject to penalties under this chapter for possessing or transporting Aquatic Invasive Species.

2.27A.050 AIS Permits and Fees

- A. Every Watercraft subject to the inspection requirements of this Chapter shall visibly display a valid AIS Permit issued by Whatcom County or the City of Bellingham prior to launching and while operating on Public Water Bodies.
- B. AIS Permits shall be issued upon passage of Inspection and payment of the applicable fee.
- C. The fee for Inspection and decontamination services for ~~Class A and Class B Watercraft~~ all classes of Watercraft shall be established in the Whatcom County Unified Fee Schedule.
- D. AIS Permits shall be available as follows:
- i. Annual Sticker. Each Annual Sticker shall be effective during the calendar year in which it is issued and shall entitle the holder to unlimited Inspections and Inspection Seal installation services for the Watercraft to which the Annual Sticker is affixed.
 - ii. ~~Class A Three-Day~~ Pass. Each ~~three~~-day pass shall entitle the holder to unlimited inspections and sealing services for the applicable Watercraft for the duration of the period specified on the pass. Day passes are available for Class A and Class B Watercraft only.
 - ii.iii. Three Day Pass. Each three day pass shall entitle the holder to unlimited inspections and sealing services for the applicable Watercraft for the duration of the period specified on the pass. Three day passes are available for Class A and Class B Watercraft only.
 - iii.iv. Special Event Passes. Special event passes may be issued for fishing tournaments, sailing and rowing regattas, and other group events approved by the director of public works or his designee upon the event sponsor's execution of a special event agreement with Whatcom County or the City of Bellingham in a form approved by the director of public works. Special event passes shall entitle each event participant to inspection and sealing services for the duration of the event, subject to the terms and conditions of the special event agreement.
 - iv.v. Annual Watercraft Business Permit. Watercraft business permits may be issued to person or entities who are in the business of providing Watercraft services (including transport, maintenance, repair, storage or other similar activities) upon execution of a cooperative agreement with Whatcom County or City of Bellingham in a form approved by the director of public works. Watercraft business permits shall be effective during the calendar year in which they are issued and shall entitle the permit holder to expedited inspection services ~~and issuance of AIS annual stickers~~ for Watercraft within the company's possession or control, all subject to the terms and conditions of the cooperative agreement.
- E. An on-line AIS Awareness Course shall be developed and made available to the public. Persons successfully completing the on-line course shall, upon providing verification of their successful completion to the Authorized Inspector, be entitled to the reduced AIS Awareness fee schedule for AIS inspections for each boat that they own.

The AIS Awareness fee schedule shall be established in the Whatcom County Unified Fee Schedule.

F. AIS Permits are nontransferable and shall apply to a single Watercraft. AIS Permits shall be affixed to the Watercraft as directed by the Authorized Inspector in a visible location located above the waterline.

G. A Watercraft shall be deemed to be in compliance with the inspection and permitting requirements of this chapter if his or her Watercraft is currently in compliance with an Aquatic Invasive Species inspection and permitting program adopted by the City of Bellingham, Washington.

H. The fees authorized by this chapter are intended to offset the cost to Whatcom County of implementing this chapter for the purpose of detecting and preventing the spread of Aquatic Invasive Species and are not intended to be, nor shall they be construed to be, charges imposed upon access to Public Water Bodies for the purpose of outdoor recreation. Fees shall be evaluated annually to ensure they are sufficient for program needs.

2.27A.060 Cooperative Agreements.

Whatcom County may enter into cooperative agreements with persons and entities, including but not limited to, homeowner's associations, condominium associations, civic groups and governmental entities, to adopt and execute plans, which may be implemented inside or outside Whatcom County, to detect and prevent the transport and release of Aquatic Invasive Species in Public Water Bodies.

2.27A.070 Penalties

A. Any person violating this chapter shall have committed a civil infraction, and shall be punished by a fine not to exceed \$1,000 for each violation. Each violation of this chapter shall be a separate infraction, and in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct infraction. Civil infractions under this chapter shall be issued and processed in accordance with Chapter 7.80 RCW, except as otherwise provided in this chapter. Each party to a civil infraction case shall bear its own attorney's fees, witness fees and costs.

B. Any individual who violates this chapter may be held responsible for the costs expended by Whatcom County or its designee for response and mitigation of impacts.

C. Payment of any civil 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 chapter is subject to citation, shall be escorted off the Public 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 and decontaminated as required under this chapter.

E. Fines collected as a result of violating this chapter that are not otherwise encumbered, shall be used to fund the Whatcom County Aquatic Invasive Species Management and Prevention Program.

2.27A.080 Applicability

The provisions of this chapter 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 chapter are in addition to those provisions regulating Aquatic Invasive Species as contained in Washington State law.

2.27A.090 Severability.

If any section, provision, or portion of this chapter shall be determined to be invalid, the remainder of the chapter shall not for that reason be rendered ineffective or invalid.