

PROPOSED BY: \_\_\_\_\_  
INTRODUCTION DATE: \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**ADOPTING VARIOUS AMENDMENTS TO WCC TITLE 20 (ZONING), CHAPTERS 20.51 (LAKE WHATCOM WATERSHED OVERLAY DISTRICT) AND 20.71 (WATER RESOURCE PROTECTION OVERLAY DISTRICT), AND OTHER REFERENCES TO THE DEPARTMENT OF ECOLOGY STORMWATER MANUAL**

**WHEREAS,** The Whatcom County Council placed on the annual docket item PLN2021-00008, directing staff to “amend the Lake Whatcom Watershed Overlay District (WCC 20.51) and the definition of significant tree (WCC 20.97.436.4) to improve compliance with the Total Maximum Daily Load by further reducing phosphorus loading impacts from development and improve tree protection measures.”

**WHEREAS,** Whatcom County has three geographic areas whose zoning is overlain by Watershed Overlay Districts, which modify the underlying zoning by further restricting certain types of uses, adding additional development and stormwater regulations and standards, and regulating the removal of trees and tree canopy, all of which are designed to further protect our lakes’ water quality and, in Lake Whatcom’s case, the primary source of the City of Bellingham’s drinking water.

**WHEREAS,** there is public concern that too many trees continue to be removed from the watersheds, which negatively affects water quality as trees contribute greatly to stormwater infiltration and sediment and contaminant removal.

**WHEREAS,**

pursuant to the Washington State Constitution, the general police powers granted to counties empower and authorize Whatcom County to adopt land use controls to provide for the regulation of land uses within the County and to provide that such uses shall be consistent with applicable law; and,

**FINDINGS OF FACT**

1. The Whatcom County Council placed on the annual docket item PLN2021-00008, directing staff to “amend the Lake Whatcom Watershed Overlay District (WCC 20.51) and the definition of significant tree (WCC 20.97.436.4) to improve compliance with the Total Maximum Daily Load by further reducing phosphorus loading impacts from development and improve tree protection measures.”
2. Whatcom County Planning and Development Services has submitted an application to make various amendments to Whatcom County Code (WCC) Title 20 Zoning to consider such amendments.
3. As some of the language of the Lake Whatcom Watershed Overlay District is also found in the Watershed Protection Overlay District, for consistency’s sake amendments to language in one watershed overlay district are also being made in the other so as to remain consistent.
4. In considering such amendments, Council reviewed the Lake Whatcom Watershed Overlay District and Water Resource Protection Overlay District codes for other issues, such as grammar, code construction, unused code, outdated titles, etc. Most of the proposed amendments shown in Exhibit A are to fix those types of issues.
5. Regarding Policy Issue #1: Reducing the threshold of how much new hard surface area is exempt from installing a permanent stormwater management system in the Lake Whatcom Watershed

Overlay district from 501 to 201 sq. ft. would cause more stormwater to be treated through a stormwater system, thus reducing the amount of contaminants reaching Lake Whatcom.

6. Regarding Policy Issue #2: In all the watershed overlay districts, reducing the amount of tree canopy that can be removed would preclude multiple acres of trees being cleared, which would reduce stormwater impacts on the lakes.
7. Regarding Policy Issue #3: In the Lake Whatcom Watershed Overlay District it is duplicative and therefore unnecessary for PDS to review and ensure permanent stormwater facilities are installed for public stormwater improvement projects.
8. Regarding Policy Issue #4: Public Works has requested that Council amend the definition of “current stormwater manual” and to reference it throughout the code, so that when the Department of Ecology publishes a new stormwater manual the County Engineer must first approve its use in Whatcom County, as this would give staff time to train on its use.
9. Regarding Policy Issue #5: In all the watershed overlay districts, there are several sections that are never used and therefore unnecessary.
10. Regarding Policy Issue #6: Reducing the size of what’s defined as a significant tree is found to be unnecessary, as the canopy of smaller trees interspersed with the larger ones would not significantly increase (and therefore retain more) canopy.
11. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 27, 2022. No comments were received.
12. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 20, 2022, for their 60-day review. No comments have been received.
13. The Planning Commission held a duly noticed public hearing on the proposed amendments on May 12, 2022, and discussed these amendments at three subsequent meetings.
14. The County Council held a duly noticed public hearing on the proposed amendments on September 27, 2022.
15. The amendments are consistent with Comprehensive Plan goals and policies listed under section IV, Comprehensive Plan Evaluation, of the staff report.
16. The amendments are consistent with the Growth Management Act, Whatcom County Comprehensive Plan, Chapter 314-55 WAC, and other applicable requirements.
17. The proposed amendments reflect current local circumstances and promote the general public health, safety, morals, and welfare.

## **CONCLUSIONS**

1. The amendments are consistent with the Whatcom County Comprehensive Plan.
2. The amendments are in the public interest.

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

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

ATTEST:

\_\_\_\_\_  
Dana Brown-Davis, Council Clerk

\_\_\_\_\_  
Todd Donovan, Council Chair

APPROVED as to form:

( ) Approved      ( ) Denied

\_\_\_\_\_  
Civil Deputy Prosecutor

\_\_\_\_\_  
Satpal Sidhu, Executive

Date: \_\_\_\_\_