



# Whatcom County

COUNTY COURTHOUSE  
311 Grand Avenue, Ste #105  
Bellingham, WA 98225-4038  
(360) 778-5010

## Agenda Bill Master Report

File Number: AB2020-393

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<b>File ID:</b>	AB2020-393	<b>Version:</b>	1	<b>Status:</b>	Adopted
<b>File Created:</b>	09/16/2020	<b>Entered by:</b>	BBushaw@co.whatcom.wa.us		
<b>Department:</b>	Public Works Department	<b>File Type:</b>	Ordinance Requiring a Public Hearing		
<b>Assigned to:</b>	Council	<b>Final Action:</b>	10/13/2020		
<b>Agenda Date:</b>	10/13/2020	<b>Enactment #:</b>	ORD 2020-052		

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Primary Contact Email: sdraper@co.whatcom.wa.us

### TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code 16.30 Lake Whatcom Stormwater Utility Service Area

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance amending Whatcom County Code 16.30 Lake Whatcom Stormwater Utility Service Area  
Regarding Clarification of Requirements of Capital Facilities Charges

### HISTORY OF LEGISLATIVE FILE

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<b>Date:</b>	<b>Acting Body:</b>	<b>Action:</b>	<b>Sent To:</b>
09/29/2020	Council	INTRODUCED FOR PUBLIC HEARING	Council
		Aye: 7	Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner
		Nay: 0	
		Absent: 0	
10/13/2020	Council	ADOPTED	
		Aye: 5	Browne, Buchanan, Donovan, Frazey, and Kershner
		Nay: 2	Byrd, and Elenbaas
		Absent: 0	

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**Attachments:** Memo, Proposed Ordinance

ORDINANCE NO. 2020-052

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.

1 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that:  
2

3 Section 1. Whatcom County Code 16.30.050 and 16.30.120 are amended to include  
4 changes regarding capital facilities charges as included in **Exhibit A** of this ordinance.  
5

6 Section 2. Challenges to the validity of any of the sections, clauses, or provisions of  
7 this ordinance shall not affect or impair the validity of the ordinance as a whole or any  
8 part thereof other than the part so declared to be invalid.  
9

10 Section 3. This ordinance shall become effective upon approval by Council.  
11

12  
13 **ADOPTED** this 13th day of October, 2020.

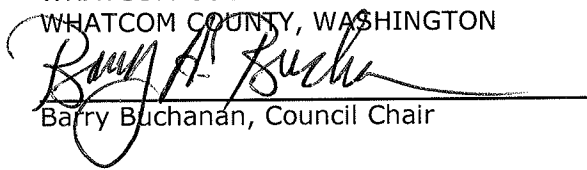
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17 ATTEST:

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20 Dana Brown-Davis, Clerk of the Council  
21

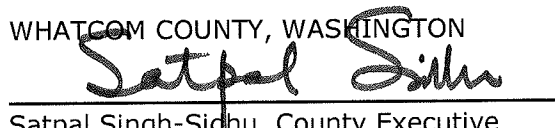
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23 WHATCOM COUNTY EXECUTIVE  
24 APPROVED AS TO FORM:

25 CQ/Emailed/BB9-16-2020  
26 Christopher Quinn, Senior Civil Deputy  
27 Prosecuting Attorney  
28  
29  
30  
31  
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WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

  
Barry Buchanan, Council Chair

WHATCOM COUNTY, WASHINGTON

  
Satpal Singh-Sidhu, County Executive

(X) Approved ( ) Denied

Date Signed: Oct 19, 2020

1 EXHIBIT A

2  
3 **CHAPTER 16.30**  
4 **LAKE WHATCOM STORMWATER UTILITY SERVICE AREA**

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6 **16.30.050 Definitions**

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

- 10  
11 (1) "County" means Whatcom County, or as indicated by the context, may  
12 mean the Department of Public Works, Public Works Director, County  
13 Engineer, or other employee or agent representing the County in the  
14 discharge of his or her duties.
- 15 (2) "County Council" means the Whatcom County Council, which is the  
16 legislative branch of Whatcom County government.
- 17 (3) "County roads" means public rights-of-way, excluding State roads, in the  
18 unincorporated areas served by the LWSU.
- 19 (4) "Developed parcel" means a parcel of real property which has been  
20 altered by impervious surface coverage.
- 21 (5) "Enterprise fund" means a fund established to account for operations that  
22 are financed and operated in a manner similar to private business  
23 enterprises where the intent of the governing body is that the costs  
24 (expenses, including depreciation) of providing goods or services to the  
25 general public on a continuing basis be financed or recovered primarily  
26 through user charges. As such, enterprise funds must report actual  
27 financial position and results of operations, such as actual assets,  
28 liabilities, fund equity balances, revenues, expenditures, and expenses.
- 29 (6) "Equivalent service unit" (ESU) means the amount of runoff a  
30 development contributes to the County's municipal separate storm sewer  
31 system (MS4) as defined by square footage of impervious surface or  
32 approximately equal to the impervious surface created by the average  
33 single-family residential developed parcel as recommended by the  
34 Western Washington Stormwater Management Manual for runoff  
35 modeling.
- 36 (7) "Forestland" or "Timberland" means forestland or timberland parcels on  
37 lands taxed as forestland under chapter 84.33 RCW or as timberland  
38 under chapter 84.34 RCW (including forest roads and or any roads on  
39 lands taxed as forestland under chapter 84.33 RCW or as timberland  
40 under chapter 84.34 RCW).

- 1 (8) "Impervious surface" means a non-vegetated surface area which either  
2 prevents or retards the entry of water into the soil mantle as under natural  
3 conditions prior to development. A non-vegetated surface area which  
4 causes water to run off the surface in greater quantities or at an increased  
5 rate of flow from the flow present under natural conditions prior to  
6 development. Common impervious surfaces include, but are not limited to,  
7 roof tops, walkways, patios, driveways, parking lots or storage areas,  
8 concrete or asphalt paving, gravel roads, packed earthen materials, and  
9 oiled, macadam or other surfaces which similarly impede the natural  
10 infiltration of stormwater. Open, uncovered retention/detention facilities  
11 shall not be considered as impervious surfaces for the purposes of  
12 determining whether the thresholds for application of Minimum  
13 Requirements are exceeded. Open, uncovered retention/detention  
14 facilities shall be considered impervious surfaces for purposes of runoff  
15 modeling.
- 16 (9) "Manager" means the Public Works Director or his/her designee.
- 17 (10) "Municipal separate storm sewer system (MS4)" means a conveyance or  
18 system of conveyances (including roads with drainage systems, municipal  
19 streets, catch basins, curbs, gutters, ditches, manmade channels, or storm  
20 drains
- 21 (11) "Other Developed Parcel" means a parcel that contains impervious  
22 surface area and is not a single-family residence, including but not limited  
23 to, commercial, industrial, multi-family apartment, and public property.
- 24 (12) "Parcel" means the smallest separately segregated unit or plot of land  
25 having an identified owner, boundaries and surface area which is  
26 documented for real property purposes and a tax account number  
27 assigned by the Whatcom County Assessor-Treasurer.
- 28 (13) "Private roads" means a road which is on private property and is  
29 maintained with private funds and requires a name per WCC 12.60.050.
- 30 (14) "Service charge" means the fee in an amount to be determined by  
31 applying the appropriate rate to a particular parcel of real property based  
32 upon factors established by this Chapter.
- 33 (15) "Single-family residence" means a residential structure designed  
34 exclusively for occupancy by one family, including but not limited to mobile  
35 homes, cabins and duplex units, as defined by the Whatcom County Land  
36 Use and Development Code.
- 37 i. "Small single-family residential footprint" means a parcel containing  
38 a single-family residence that has less than or equal to 2,500  
39 impervious square feet.

- 1                   ii. "Medium single-family residential footprint" means a parcel
- 2                   containing a single-family residence with more than 2,500
- 3                   impervious square feet and less than or equal to 8,400 impervious
- 4                   square feet.
- 5                   iii. "Large single-family residential footprint" means a parcel containing
- 6                   a single-family residence with more than 8,400 impervious square
- 7                   feet.
- 8           (16) "Undeveloped parcel" means any parcel of real property which has not
- 9           been altered by construction of any structure or other impervious surface
- 10           area.
- 11           (17) "Unit rate" means the dollar amount charged per ESU.
- 12           (18) "WSDOE" means the Washington State Department of Ecology.

13  
14 **16.30.120 Capital Facilities Charge**

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16           The County Council shall establish from time to time, by ordinance, the unit rate  
17 per ESU for a one-time, capital facilities charge (CFC) applicable to:

- 18
- 19           A. Single-family Residential Parcels. New single-family dwelling units shall pay a
- 20           CFC equal to one ESU. The CFC fee is required at the time of approved project
- 21           permit authorizing construction.
- 22
- 23           B. Other Developed Parcels. New or additional ESUs shall pay the CFC rate times
- 24           the number of ESUs. The CFC fee is required at the time of the approved project
- 25           permit authorizing construction. No CFC is required for redevelopment or
- 26           expansion if the total of new and replaced impervious surface does not cause the
- 27           existing number of ESUs to increase, or if the entire project is replaced or
- 28           redeveloped existing impervious surface.

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