

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

**AN ORDINANCE RELATING TO THE ANNEXATION OF APPROXIMATELY TWO HUNDRED AND THIRTY THREE ACRES OF UNINCORPORATED PROPERTY LOCATED ADJACENT TO THE NORTHERN BOUNDARY OF THE BELLINGHAM CITY LIMITS AND COMMONLY KNOWN AS THE VAN WYCK/JAMES STREET ANNEXATION; ASSIGNING CITY LAND USE AND ZONING DESIGNATIONS, AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, on February 12, 2008, Whatcom County Council added the Van Wyck / James Street area to Bellingham's Northern Urban Growth Area (UGA) and rezoned the area from Rural 5-acres (R5A) to Urban Residential Mix (URMX) to allow for urban densities at 10 to 24 units per acre consistent with state law; therefore, the subject area is eligible for annexation; and

**WHEREAS**, on July 18, 2008 the property owners in the annexation area held the required neighborhood meeting to discuss the annexation process; and

**WHEREAS**, on or about August 4, 2008, the property owners filed a proper and sufficient Notice of Intent to commence annexation proceedings pursuant to RCW 35.13.125; and

**WHEREAS**, on September 29, 2008 the City Council held a public meeting and approved Resolution 2008-35, thereby initiating the review process for this annexation request, subject to adopting City land use designations, zoning and assumption of existing City indebtedness; and

**WHEREAS**, on October 3, 2008, the property owners within the annexation area submitted the required seventy-five percent petition to the City consistent with state law; and

**WHEREAS**, the City forwarded the petition to the Whatcom County Assessor, whereby the Assessor found the petition to comply with state law, and thereafter, provided a Certificate of Sufficiency to the City according to RCW 35.21.005; and

**WHEREAS**, on February 20, 2009 the City forwarded the Notice of Intention to the Boundary Review Board (BRB) for its 45-day review of the annexation proposal in accordance with state law (RCW 36.93); and

**WHEREAS**, in April, 2009 the Bellingham City Council and Whatcom County Council approved Amendment #18 to the 1997 Interlocal Agreement between the City and Whatcom County to include the Van Wyck/James Street Annexation; and

**WHEREAS**, on April 25, 2009 the Whatcom County Boundary Review Board deemed the Notice of Intention to Annex as described in the BRB file #2009-02 approved; and

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Bellingham, Washington 98225  
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**WHEREAS**, both the City of Bellingham and Whatcom County have established goals and policies to protect land within the Lake Whatcom Watershed and agricultural lands from development; and

**WHEREAS**, in April 2009 the City of Bellingham and Whatcom County Planning Directors jointly signed a Memorandum of Agreement to recommend that property owners within the annexation area purchase transfer development rights (TDR) as a condition of annexation; and

**WHEREAS**, the property owners within the Van Wyck/James Street Annexation area agree to purchase 1 transfer of development right (TDR) and/or purchase of development rights (PDR) for every 5 acres of land in exchange for annexation; and

**WHEREAS**, on June 29, 2009 the Bellingham City Council approved Ordinance 2009-06-037 which established a "fee in lieu of" option whereby property owners/developers in receiving zones could purchase development rights (PDR) to obtain additional residential density by paying an established fee to the City's Lake Whatcom Watershed Property Acquisition Program Fund; and

**WHEREAS**, the City's comprehensive plan recognizes the potential to accommodate a healthy mix of diverse residential, commercial and mixed-use development in designated urban villages; and

**WHEREAS**, portions of the Van Wyck/James Street Annexation area are appropriate for development of an urban village; and

**WHEREAS**, ALLIANCE Properties Inc., owner of approximately 132.95 acres within the annexation area has agreed to work with the City to develop an urban village within the annexation area; and

**WHEREAS**, ALLIANCE has signed a Concomitant Agreement with the City, whereby the property owner will develop a master plan and implementing regulations for development of an urban village on ALLIANCE properties for review and approval by the City; and

**WHEREAS**, on August 10, 2009 the Bellingham City Council held a public hearing and determined the annexation is consistent with the State Growth Management Act (GMA), and the policy direction in Whatcom County's Comprehensive Plan, the Countywide Planning Policies, the Bellingham Subarea Plan as revised, and Bellingham's Comprehensive Plan; and

**WHEREAS**, at the conclusion of the hearing, Council approved the Van Wyck/James Street annexation ordinance.

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

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**Section 1.** The property commonly known as the Van Wyck/James Street Annexation as legally described in Exhibit A is hereby annexed to the City of Bellingham.

**Section 2.** The area annexed herein shall assume its proportional share of the existing indebtedness of the City of Bellingham.

**Section 3.** A new Area 13 is added to the King Mountain Neighborhood Plan, component of the Bellingham Comprehensive Plan as described in Exhibit B.

**Section 4.** A new Area 13 is added to the King Mountain Neighborhood Land Use Map of the Comprehensive Plan Land Use Map as shown in Exhibit C.

**Section 5.** A new Area 13 is added to King Mountain Table of Zoning Regulations of Bellingham Municipal Code 20.00.095, as shown in Exhibit D.

**Section 6.** A new Area 13 is added to the King Mountain Neighborhood Zoning Map as shown in Exhibit E.

**Section 7.** In exchange for annexation by the City, each of the nineteen property owners of the Van Wyck/James Street Annexation area has agreed to purchase or transfer one development right for every five acres of land annexed to the City by executing a Covenant to Purchase or Transfer Development Rights. An example of the covenant is attached as Exhibit F. The covenants shall be recorded only upon the City's approval of the annexation.

**Section 8.** The largest property in the Van Wyck/James Street Annexation area, Alliance Properties Inc., has executed a Concomitant Agreement with the City of Bellingham agreeing to develop an urban village master plan and implementing regulations for review and approval by the City as shown as Exhibit G attached and incorporated by reference. The Concomitant Agreement shall be recorded only upon the City's approval of the annexation.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

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**APPROVED AS TO FORM:**

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Office of the City Attorney

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