

**ORDINANCE NO. 120
CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON**

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE PROVIDING FOR THE
ASSUMPTION OF THE LIBERTY LAKE SEWER AND WATER DISTRICT**

WHEREAS, the City of Liberty Lake (the "City") is a municipal corporation in the State of Washington, and the Liberty Lake Sewer and Water District (the "District") is a municipal corporation in the State of Washington; and

WHEREAS, the State Legislature enacted RCW Chapter 35.13A for the purpose of authorizing a city to assume jurisdiction of a sewer and water district established under RCW Title 57; and

WHEREAS, the State Legislature enacted RCW Chapter 36.70A, the State's Growth Management Act, which in part states that, "In general, cities are the units of local government most appropriate to provide urban governmental services." Urban governmental services are defined to include the provision of sewer and water services; and

WHEREAS, the District currently provides sewer and water utility services throughout most of the City; and

WHEREAS, at least sixty percent of the total geographic area and at least sixty percent of the assessed valuation of the District is within the corporate boundaries of the City; and

WHEREAS, the State of Washington recognizes that the assumption of a special purpose district by a city will reduce the number of overlapping jurisdictions in the provision of municipal services and create more efficient and more responsive operations; and

WHEREAS, the Legislature has found that the rapid increase in the number of local governmental units adversely affects the cost of municipal services, the financial integrity of certain municipalities, the consistency of local regulations and many other incidents of local government services; and

WHEREAS, the assumption of responsibilities for sewer and water services by the City will provide an advantage to the community through the consolidation of municipal efforts and increase local authority on local issues; and

WHEREAS, the City has attempted to work cooperatively with the Liberty Lake Sewer and Water District ("District") and reach an agreement to merge and assume the duties and responsibilities of the District with the City of Liberty Lake in a manner consistent with RCW Chapter 35.13A; and

WHEREAS, the City Council believes it is in the best interest of the citizens to commence the process to assume the jurisdiction of the District.

NOW, THEREFORE, the City Council of the City of Liberty Lake, Washington, does ordain as follows:

Section 1. Purpose. The purpose of this Ordinance is to exercise all authority pursuant to RCW Chapter 35.13A providing for the assumption by the City of the Liberty Lake of the Liberty Lake Sewer and Water District, No. 1. The City shall acquire all District property and assume responsibility for provision of services, maintenance and operation of facilities, allocation of cost, financing, and other related matters, all as set forth in RCW Chapter 35.13A. Through this Ordinance, the City exercises its assumption authority pursuant to RCW Chapter 35.13A.030.

Section 2.

2.1 Merger, Assumption and Acquisition. The City of Liberty Lake shall merge, assume and acquire all real and personal property, franchises, rights, assets, taxes levied but not collected for the District for other than indebtedness, water, sewer, and drainage facilities, and all other facilities and equipment of the District shall become the property of the City subject to all financial, statutory, or contractual obligations of the District for the security or performance of which the property may have been pledged. To the extent there is District indebtedness, the City shall assume the obligation of such indebtedness including the levying and collecting or causing to be collected the District taxes, assessments, and utility rates and charges of any kind or nature to pay and secure the payment of the indebtedness, according to all of the terms, conditions and covenants incident to the indebtedness, and shall assume and perform all other outstanding contractual obligations of the District in accordance with all of their terms, conditions and covenants.

2.2 Powers. The City, in addition to other powers conferred by statute, shall have the power to manage, control, maintain and operate the property acquired from the District including facilities and equipment and to fix and collect service and other charges from owners and occupants of properties served by the District, subject, however, to any outstanding indebtedness, bonded or otherwise, of the District payable from taxes, assessments, or revenues of any kind or nature and to any other contractual obligation of the District.

Section 3. Legislative Authority. The Liberty Lake City Council shall, upon merger and assumption, act as the officers of the District for the purpose of certifying the amount of any property tax to be levied and collected and causing service and other charges and assessments to be collected from property or owners or occupants including enforcing the collection and performing all other acts necessary to insure performance of the District's contractual obligations in the same manner and by the same means as if the territory of the District had not been included within the boundaries of the City.

Section 4. Deposit and Transfer of Funds. The City of Liberty Lake, through appropriate budget ordinance, shall create a special fund for the purpose of depositing, managing, and disbursing funds presently held and received on behalf of the operation of the

sewer and water District. Such funds are to be placed in a special fund and shall not be commingled with the general fund of the City. All funds of the District on deposit with Spokane County at the time of transfer of title to District property and assets shall be used by the City for the sole purpose of managing and operating the utility as set forth herein and shall not be transferred to the City's general fund. Notice of such merger and assumption shall be provided by the City Clerk/Treasurer to the County Treasurer.

Section 5.

5.1 Effect of Merger, Assumption and Acquisition. Upon the merger, assumption and acquisition of the District, the City shall manage and operate the water and sewage facilities including, but not limited to, all pumps, pipes, valves and other appurtenances owned or controlled by the District, as well as, sewage treatment facilities and water distribution facilities with all rights, obligations and liabilities of said facilities transferred to the City. Upon such transfer, the District shall cease to have control over the property, assets and facilities acquired provided, however, that all actions shall be taken by the City in order to preserve any state or federal funds or assistance currently available or expected to become available to the City or District for the maintenance, operation, development and construction of water or sewer facilities.

5.2 In accordance with the terms of a merger or acquisition agreement or upon a court order pursuant to RCW 35.13A.080, on the effective date of the merger or acquisition, all property, real, personal, and all debts due on whatever account, and all and every other interest of or belonging to or due the District related to water or sewer treatment facilities or appurtenances shall be deemed transferred to and vested in the City of Liberty Lake.

5.3 The rights of creditors shall not be impaired nor shall any work in progress by third parties including claims against the District be impaired by the acquisition. It is further provided that the acquisition shall not impair the obligation of any contract or agreement nor abate any suit, action or other proceeding lawfully commenced by or against the District related to the water and sewer facilities, or any of its members, or officers in relation to the discharge of their official duties.

5.4 Upon completion of the acquisition, merger or consolidation, the City shall have the right, responsibility and duty to manage and operate the water and sewer systems pursuant to state law, city ordinance and other duly adopted rule or regulation of the City.

Section 6. Employment. The City shall offer to employ every full-time employee of the District who is engaged in the operation of the sewer and water district facilities on the date when the City acquires the District facilities. The above District employees shall be deemed employees of the City subject to contract rights which were acquired through previously employment with the District. When the City employs a person who was previously employed by the District, arrangements shall be made for retention of all sick leave standing to the employee's credit pursuant to the plan of the District and for vacation with pay during the first year of employment equivalent to that which would have been received as an employee of the District.

Section 7. Petition for Dissolution. In the event that the parties are unable to agree upon and present to the Spokane County Superior Court a joint Petition pursuant to RCW 35.13A.080 for the joint dissolution of the District, the City may present a petition to the Court. The City Council authorizes such Petition to be filed when the Mayor determines there is not, or likely to be, a mutual agreement on the distribution of assets and liabilities pursuant to RCW Chapter 35.13A.

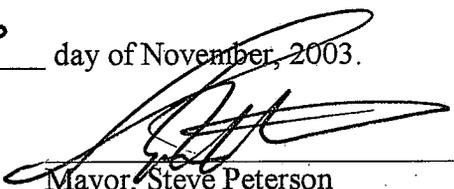
Section 8. Timing. The City Council desires that the merger, assumption and/or acquisition take place as soon as practicable the matters to be completed and the process, as necessary, to be held pursuant to state law.

Section 9. Administrative Authority. The City Council hereby confers upon the Mayor and designee the authority to perform all acts, including but not limited to the filing of permits, applications, and requests reasonably required to accomplish the matters set forth herein, Chapter 35.13A, RCW, and all other applicable laws. Specifically, a feasibility study adopted as findings of facts by the City Council shall be prepared prior to filing a Notice of Intent with the Boundary Review Board.

Section 10. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 11. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

PASSED by the City Council this 18 day of November, 2003.



Mayor, Steve Peterson

ATTEST:



City Clerk-Treasurer, Arlene Fisher

APPROVED AS TO FORM:

Special Counsel: P. Stephen D. Zulis

Date of Publication: 11/27/03

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