

ORDINANCE NO. _____

AN ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20 (ZONING) TO DEFINE APPROPRIATE INDUSTRIAL USES AND CONDITIONS FOR INDUSTRIAL USES IN HEAVY IMPACT INDUSTRIAL (HII) DISTRICTS WITHIN A CITY'S DESIGNATED URBAN GROWTH AREA

WHEREAS, The Council's 2024 docket includes item PLN2023-00007, "Amend Whatcom County Code Chapter 20.68 and other relevant sections of Title 20 to define appropriate industrial uses and conditions for industrial uses in Heavy Impact Industrial (HII) Districts within a city's designated urban growth area.."

WHEREAS, Whatcom County Planning and Development Services has proposed amendments to Whatcom County Code Title 20 to fulfill this directive; and,

WHEREAS, The Whatcom County Council reviewed and considered the Planning Commission recommendation, staff recommendation, and public comments on the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. Whatcom County Planning and Development Services has submitted an application to amend Whatcom County Code Chapter 20.68 and other relevant sections of Title 20 to define appropriate industrial uses and conditions for industrial uses in Heavy Impact Industrial (HII) Districts within a city's designated urban growth area.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on August 26, 2024. No comments have been received to date.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on August 1, 2024, for their 60-day review. No comments were received.
4. The Planning Commission held 6 workshops between 5/23 to 9/12/24 and heard from numerous parties, including residents, businesses, and other interest groups.
5. The Planning Commission held a duly noticed public hearing on the proposed amendments on September 26, 2024.
6. The Planning Commission considered the County Council's input in developing their recommendation, including the docket language as well as Exhibits B and C, though modified some language based on input from the community. However, the Commission was not able to gain enough votes to offer a recommendation on the amendments.
7. Instead, the Planning Commission approved a resolution (Exhibit F) recommending that the Council consider a targeted moratorium, potentially excluding the waterfront HII properties, until this matter can be better addressed through the Comprehensive Plan Periodic Update.
8. The County Council held a duly noticed public hearing on the proposed amendments on _____, 2024.

9. The amendments are consistent with Comprehensive Plan Policy Goal 2D to “refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.” There are no policies with which these amendments would be inconsistent.
10. The amendments are consistent with the Urban Fringe Subarea Plan.

CONCLUSIONS

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

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.

Section 2. Staff is authorized to work with Code Publishing to correct and update any cross-references made ineffective by these amendments.

Section 3. Severability. Should any part of this regulation be held to be illegal, unconstitutional, or otherwise unenforceable, the remainder of the regulation shall still apply.

ADOPTED this _____ day of _____, 2024.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Cathy Halka, Council Clerk

Barry Buchanan, Council Chair

APPROVED as to form:

() Approved () Denied

George Roche, Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Exhibit A: Amendments to WCC Chapter 20.68 Heavy Impact Industrial District

WCC TITLE 20

Chapter 20.68 Heavy Impact Industrial (HII) District

20.68.050 Permitted uses.

(...)

~~.064 Uses allowed in the Light Impact Industrial Zone as permitted uses, WCC 20.66.100, shall be permitted outright within the Heavy Impact Industrial District in the Bellingham UGA.~~

(...)

Commented [CES1]: Moved to 20.68.210.

20.68.150 Conditional uses.

The following uses require a conditional use permit in the HII Zoning District:

~~.152 Outside of the Bellingham Urban Growth Area, U~~uses allowed in the Light Impact Industrial Zone as permitted uses, WCC 20.66.~~1050~~, ~~are allowed as condition uses~~, subject to the following:

- (1) ~~Outside of the Bellingham Urban Growth Area, a~~Approval shall be supported by a finding by the ~~H~~Hearing e~~E~~xaminer that allowing the use will not limit the supply of land available to meet the demand for future heavy industrial uses.
- (2) Filing of a deed restriction acknowledging that heavy industrial uses are the preferred uses in the zone and agreeing not to protest proposed heavy industrial uses allowed in the zone in accordance with Chapter 20.68 WCC, and to refrain from legal action against any heavy industrial use in compliance with the regulations of WCC Title 20 and any conditions of approval which might have been proposed.

(...)

20.68.200 Prohibited uses.

All uses not listed as permitted, accessory, administrative approval, or conditional uses are prohibited, including but not limited to the following, which are listed here for purposes of clarity:

.201 Reserved.

.202 Adult businesses.

.207 Coal-fired power plants.

~~.203 In the Bellingham Urban Growth Area the following uses are prohibited:~~

- ~~(a) petroleum refineries and the primary manufacturing of products thereof,~~
- ~~(b) primary manufacturing and processing of rubber, plastics, chemicals, paper, asbestos and products derived thereof; and~~
- ~~(c) primary metal industries.~~

.204 New fossil fuel refineries or transshipment facilities.

Commented [CES2]: Moved to 20.68.210

.206 New piers, docks, or wharves in Cherry Point Industrial District.

.208 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV-Special forest practices, when located within an urban growth area.

.209 Slash burning, when located within an urban growth area.

20.68.210 Use Allowances Specific to the Bellingham Urban Growth Area.

This section modifies the permitted (WCC 20.68.050) and prohibited uses (WCC 20.68.200) for HII zoned properties in the Bellingham Urban Growth Area, within which the following uses are permitted or prohibited, as indicated. All other accessory (WCC 20.68.100), administrative (WCC 20.68.130), and conditional uses (WCC 20.68.150) remain the same.

. 212 Except as prohibited by WCC 20.68.216, Uses allowed in the Light Impact Industrial district as permitted uses (WCC 20.66.1050) shall be permitted uses within the Heavy Impact Industrial District.

.216 The following uses are prohibited:

- (a) Fossil or renewable fuel refineries or transshipment facilities, and the primary manufacturing of products thereof;
- (b) Primary manufacturing and processing of rubber, plastics, paper, asbestos;
- (c) Primary metal industries including blast furnaces and steel works and mills for primary smelting;
- (d) Metal recycling or any outdoor manufacturing, storage, or processing of metal products described in WCC 20.68.054(6);
- (e) Primary manufacturing of chemicals and associated products, including industrial inorganic and organic chemicals; synthetic resins, rubber, fibers and plastic materials; soap, detergents and cleaning preparations; paint, linseed oil, shellac, lacquer and allied products; chemicals from gum and wood; and agricultural chemicals;
- (f) Packinghouses and slaughterhouses and associated holding pens, except for seafood facilities;
- (g) Asphalt storage;
- ~~Bulk commodity storage facilities, and truck and vessel transshipment terminals and facilities applied for after [effective date of this ordinance], except for those using only fully enclosed containers;~~
- (h) Hazardous waste treatment and storage facilities as a primary use;
- (i) Type I, II, or III solid waste handling facilities;
- (j) Thermal power plants as a primary use;
- (k) Battery energy storage systems (BESS) of greater than 20 megawatts that run for a duration of four hours or greater;
- (l) Type 2 cannabis production facilities;
- (m) Cannabis processing facilities.

Chapter 20.97 Definitions

20.97.130 "M" definitions.

(...)

Manufacturing. Manufacturing is the process of turning raw materials or parts into finished goods through the use of tools, human labor, machinery, and chemical processing. "Manufacturing" means establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

(...)

20.97.160 "P" definitions.

(...)

Primary Manufacturing. Primary manufacturing is the process of creating a product from raw or scrap materials. This can be done through machining, casting, forging, or other processes.

(...)

20.97.190 "S" definitions.

(...)

Secondary Manufacturing. Secondary manufacturing is the process of taking primary manufacturing products and further processing them into finished goods. This can be done through assembly, packaging, or other methods.

(...)