

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

**ADOPTING THE BUILDABLE LANDS REPORT 2022**

**WHEREAS**, The Whatcom County Planning Commission held a public hearing and issued recommendations on the Buildable Lands Report; and

**WHEREAS**, The County Council considered Planning Commission recommendations;

**WHEREAS**, The County Council held a public hearing; and

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

**FINDINGS OF FACT**

1. The Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program (July 7, 2022) has been developed in the context of a housing crisis. Housing availability and housing affordability are highly significant issues impacting our community.
2. Whatcom County recognizes that the Buildable Lands Report does not address the issue of housing affordability and that there remain material unanswered questions regarding housing availability. Additional work that revisits the estimates of supply and demand that are feasible, realistic, and consistent with current regulatory requirements and infrastructure are needed and will be reviewed in the 2025 comprehensive plan updates.
3. The proposal is to adopt *the Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* (July 7, 2022).
4. The SEPA Official determined on July 19, 2022 that adoption of the *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* is categorically exempt from SEPA review under WAC 197-11-800(17) as information collection and research.
5. Notice of the Planning Commission hearing was posted on the County website on September 30, 2022.
6. Notice of the Planning Commission hearing was published in the Bellingham Herald on September 30, 2022.
7. Notice of the Planning Commission hearing was sent to the County’s email list on September 30, 2022.
8. The Planning Commission held a public hearing and recommended that the County Council adopt the *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* on October 13, 2022.
9. The Growth Management Act “Review and Evaluation Program” (buildable land) requirements became applicable to Whatcom County and the cities when the State Legislature adopted Engrossed Second Substitute Bill 5254 in 2017.

10. The Growth Management Act's Review and Evaluation Program requirements (RCW 36.70A.215) include updating county-wide planning policies, developing a buildable lands program methodology, data collection, reviewing achieved densities, evaluating land suitable for development and issuing a Buildable Lands Report. The information contained in the Buildable Lands Report will to some degree inform the next update of the Whatcom County Comprehensive Plan, which is due by June 30, 2025.
11. In evaluating land suitable for development, RCW 36.70A.215(3)(b)(ii) requires jurisdictions to develop a "reasonable land market supply factor" consistent with the guidance document promulgated by the Department of Commerce ("Guidance").
12. The land market supply factor is incorporated to account for the reality that not all developable land will actually be developed within the planning timeframe.
13. WAC 365-196-310(2)(e) authorizes jurisdictions to consider unique local conditions when establishing a market supply factor. Including relevant local factors is vital to ensuring that the Buildable Lands Report presents a realistic picture of development within the remaining planning period.
14. The Department of Commerce's Guidance also expressly encourages cities to adopt a market supply factor that reflects "uniquely local conditions" to "avoid overestimation of effective buildable lands capacity."
15. On March 24, 2022, the City of Bellingham released a Technical Memo describing the analysis used to develop the land market factor utilized for developable lands within Bellingham.
16. The Bellingham Technical Memo asserts that "Vacant land usually presents the fewest challenges to development." However, many of the vacant lands included within Bellingham's net developable land inventory have significant constraints that make any development within the remaining planning period unlikely. These constraints include steep slopes, critical areas and their buffers, and substantial pre-requisite conditions that must be met prior to any development being permitted.
17. For example, areas 8, 8E, and 11 of the Whatcom Falls Neighborhood contain the most undeveloped land in that neighborhood. However, any development of each of those areas is subject to significant prerequisite conditions, including construction of a new Lopez Avenue collector arterial, upgrades to other arterials, and possible development of San Juan Boulevard.
18. Neither the Lopez Avenue collector arterial nor San Juan Boulevard are listed in Bellingham's current 6-year transportation improvement plan, nor is there any evidence that these roads will likely be built by developers within the current planning period.

19. The construction of the foregoing roads being listed as prerequisite conditions to allow for development make it highly unlikely that any development in these areas will occur during the remainder of the current planning period.
20. Based on these prerequisite conditions in the Whatcom Falls Neighborhood, and other neighborhoods with similar fundamental constraints, the amount of land available for development in these areas should be considered zero for the present planning purposes.
21. Similar barriers to development exist for other blocks of undeveloped land throughout Bellingham. There are other large blocks of property in Bellingham that require “ground-truthing” to verify the true likelihood of development within the current planning period. This level of review and analysis has not been completed in Bellingham.
22. The Department of Commerce’s guidance reports that other cities in western Washington have applied market supply factors as high as 50% for vacant and under-utilized land.
23. The Bellingham Technical Memo assigns a range of market factors from 25% - 35% to developable lands within Bellingham (Page 9).
24. The Bellingham Technical Memo also notes that a higher market factor range could be assigned to individual buildable lands properties with a reduced likelihood of future development. However the Technical Memo stated that this analysis would “require a level of complexity ... that is seen as prohibitive.” As a result, analysis to support a higher market factor range was not incorporated into the market supply factor for Bellingham.
25. The Department of Commerce’s Guidance also encourages jurisdictions to obtain input from property owners and the real estate industry when developing a market supply factor (Page 61).
26. Bellingham’s Technical Memo describes outreach efforts to property owners. Of twenty-three owners who were identified, only five completed interviews, and only one of the interviewees owned property in Bellingham. As a result, the property owner input obtained is inadequate and likely does not completely capture development constraints within Bellingham.
27. **Because these unique local factors identified in the Department of Commerce Guidance Document were not adequately accounted for in the market supply factor used by Bellingham, the Buildable Lands Report may significantly overestimate the amount of land within Bellingham which is truly suitable for development within the remaining planning period.**
28. The County’s consultant held interviews with representatives of each jurisdiction and several key community stakeholders. This information was compiled in a *Stakeholder Interview Summary Whatcom County Review and Evaluation (Buildable Lands) Program* (CAI, May 2019).

29. The County's consultant conducted research on topics with important implications for the buildable lands report, including local regulations, infrastructure, housing affordability, and growth trends. This included reviewing relevant portions of the Revised Code of Washington and Washington Administrative Code. This information was compiled in a *Background Information and Key Issues Report* (CAI, June 2019).
30. Whatcom County and the cities, with the assistance of a consultant, developed the *Whatcom County Review and Evaluation Program Public Participation Plan* (April 2020) and have followed that Plan.
31. Whatcom County and the cities developed draft Countywide Planning Policies establishing the Review and Evaluation Program. The Whatcom County Planning Commission held a public hearing on these Countywide Planning Policies on September 10, 2020. The Whatcom County Council held a public hearing and adopted the Countywide Planning Policies on February 9, 2021 (Ordinance 2021-003).
32. Whatcom County and the cities, with the assistance of a consultant, drafted the *Whatcom County Review and Evaluation Program Methodology* to implement the 2017 state amendments to the Growth Management Act. Stakeholders reviewed and provided comments on preliminary draft versions of this Methodology in 2021. Modifications to the draft Methodology were made based upon stakeholder comments in 2021. The Whatcom County Planning Commission held a public hearing on the draft Methodology on October 28, 2021. The County Council and city councils were briefed on the draft Methodology in 2021-2022. The Whatcom County Planning Director approved the Methodology on February 10, 2022.
33. Whatcom County and the cities, with the assistance of a consultant, developed Data Reporting Tool templates for collection of data on development and local government ordinances over the review period. The templates are intended to facilitate uniform collection of data by the County and cities.
34. The County and cities entered information in the Data Reporting Tools, including information on building permits and plats issued between April 1, 2016 and March 31, 2021. The Data Reporting Tools calculate achieved densities over the five-year review period.
35. Whatcom County and the cities, with the assistance of a consultant, developed Suitable Land Tool templates for estimating the amount of land available for development over the remaining portion of the planning period. The templates are intended to facilitate uniform evaluation of land supply by the County and cities.
36. The County and cities entered information in the Suitable Land Tools to estimate the capacity of land suitable for development to accommodate population and employment growth over the remaining portion of the existing planning period (2021-2036). The

Suitable Land Tools compare the land capacity to the projected population and employment growth to estimate whether there will be a surplus or deficit of land to accommodate projected growth (2021-2036).

37. The City of Bellingham and the County shared draft Data Reporting Tool and Suitable Land Tool spreadsheets at a Buildable Lands - Virtual Stakeholder Workshop on February 9, 2022.
38. Whatcom County and the cities issued *the Buildable Lands Report 2022 –Whatcom County Review and Evaluation Program* on July 7, 2022. This Report summarizes and analyzes information from the Data Reporting Tools, Suitable Land Tools, and other sources to meet the requirements of the Growth Management Act.
39. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* claims that there is sufficient suitable land to accommodate the countywide population projection contained in the Whatcom County Comprehensive Plan (Chapter 1).
40. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* claims that each Urban Growth Area (UGA), with the exception of the Birch Bay UGA, has sufficient suitable land to accommodate the UGA population projections contained in the Whatcom County Comprehensive Plan (Chapter 1).
41. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* claims that there is sufficient suitable land to accommodate the countywide employment projection contained in the Whatcom County Comprehensive Plan (Chapter 1).
42. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* claims that each UGA has sufficient suitable land to accommodate the UGA employment projections contained in the Whatcom County Comprehensive Plan (Chapter 1).
43. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* shows that reasonable measures are needed for the Birch Bay, Cherry Point, and Columbia Valley UGAs pursuant to RCW 36.70A.215.44.
44. For the Birch Bay UGA, reasonable measures are needed to address:
  - a. Achieved residential densities between 2016 and 2021 were below the planned densities in Whatcom County Comprehensive Plan Chapter 2 (Goal 2P);
  - b. Land capacity to accommodate the population projection adopted in Whatcom County Comprehensive Plan Chapter 1; and
  - c. Land capacity to accommodate single family housing needs as set forth in Whatcom County Comprehensive Plan Chapter 3.

45. For the Cherry Point UGA, reasonable measures are needed to address employment growth because growth that occurred between 2016 and 2021 was significantly below the planned growth projected in the *Whatcom County Comprehensive Plan* (Chapter 1). Employment growth would have exceeded the planned growth, except that a major employer shut down in 2020.
46. For the Columbia Valley UGA, reasonable measures are needed to address employment growth because growth that occurred between 2016 and 2021 was significantly below the planned growth projected in the *Whatcom County Comprehensive Plan* (Chapter 1).
47. Reasonable measures are not needed for any other lands in unincorporated Whatcom County.
48. Following adoption of the 2016 Comprehensive Plan, Bellingham has undertaken numerous initiatives to address housing availability and affordability. These initiatives include measures identified by the Department of Commerce’s Guidance as reasonable measures, including without limitation encouraging infill and redevelopment, allowing density bonuses, rezoning, and encouraging developers to reduce off-street surface parking.
49. The Growth Management Act requires Whatcom County and the cities to update their respective Comprehensive Plans by 2025 (RCW 36.70A.130).
50. Growth Management Act Planning Goal 4, which guides the development and adoption of comprehensive plans and associated regulations, is to:

Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock (RCW 36.70A.020(4)).
51. The Growth Management Act includes mandatory elements that must be included in a local comprehensive plan, including a housing element (RCW 36.70A.070(2)).
52. The Washington State Legislature passed Engrossed Second Substitute House Bill 1220, which became effective on July 25, 2021. This legislation enacted significant amendments to RCW 36.70A.070(2), requiring additional analysis and planning to address housing affordability in the 2025 comprehensive plan updates.
53. In 2017, the Washington State Legislature amended the requirements of the evaluation program (Buildable Land Report) to include a “review and evaluation of ... infrastructure gaps (including but not limited to transportation, water, sewer, and stormwater)” (RCW 36.70A.215((3)(b)(i))).
54. [The Growth Management Act requires the 2025 comprehensive plan periodic updates to address a number of things, including an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected](#)

[growth \(provided by the department of commerce\), preservation, improvement, and development of housing, sufficient land capacity, and adequate provisions for existing and projected needs of all economic segments of the community \(RCW 36.70A.070\(2\)\).](#)

55. The Washington State Department of Commerce anticipates that the State Legislature will provide grants to local governments, including Whatcom County and the cities, to implement the expanded housing element requirements in RCW 36.70A.070(2). The State anticipates these grants will be available July 1, 2023.

56. Whatcom County recognizes that housing availability and housing affordability are major issues in our community.

57. [Detached single family median home prices for Bellingham and Whatcom County as a whole have risen as shown below.](#)

	<a href="#"><u>2016</u></a>	<a href="#"><u>2022</u></a>	<a href="#"><u>Percentage Increase</u></a>
<a href="#"><u>Bellingham</u></a>	<a href="#"><u>\$363,233</u></a>	<a href="#"><u>\$710,000</u></a>	<a href="#"><u>95.5%</u></a>
<a href="#"><u>Whatcom County</u></a>	<a href="#"><u>\$315,000</u></a>	<a href="#"><u>\$601,875</u></a>	<a href="#"><u>91.1%</u></a>

[Sources: Whatcom County Association of REALTORS.](#)

58. [A report entitled “Puget Sound Regional Council & Washington State Department of Commerce Housing Survey” \(December 2022\) indicates that respondents statewide and in Western Washington identified housing costs/rents and homelessness as the two most important problems facing Washington State today \(p. 9\). Statewide, 39% of respondents identified housing costs/rents and 39% identified homelessness as the most important issues. These percentages were slightly higher in Western Washington, where 40% of respondents identified housing costs/rents and 41% identified homelessness as the most important issues.](#)

59. [A report entitled “The Conspicuous Crisis: Addressing Housing Affordability in Washington” \(Challenge Seattle, January 2023\) states “. . . Nearly ~1 million Washington households are cost-burdened, spending more than 30% of household income on housing-related costs . . . While burden rate varies, affordability is a state-wide challenge. . .” \(p. 5\). Whatcom County has a high cost burden rate of 35.9% \(p. 5\).](#)

60. Whatcom County recognizes that solutions to [housing availability and housing affordability](#) these problems will require County government, city governments, the private sector, and other entities working to plan and provide for sufficient and affordable housing for the community.

61. Whatcom County recognizes that land capacity for housing is an important factor relating to housing availability and affordability. Additional land capacity can be provided by increasing densities ([e.g. rezoning or amending the code to require minimum densities](#)) and/or reconfiguring or expanding urban growth areas.

62. Whatcom County and the cities should evaluate increasing densities ([e.g. rezoning or amending the code to require minimum densities](#)) in urban growth areas, including land within city limits, to accommodate additional housing units.
63. The Whatcom County Comprehensive Plan anticipates that approximately 84% of population growth will occur in UGAs and about 16% outside UGAs in rural and resource lands.
64. There are 10 UGAs in Whatcom County. Seven of these UGAs are associated with cities and three are non-city UGAs (one of the non-city UGAs is Cherry Point, which does not accommodate residential development).
65. The Whatcom County Comprehensive Plan anticipates countywide population growth will occur in the following geographic areas:
  - a. 74.4% in the seven city UGAs;
  - b. 9.5% in the two non-city UGAs (Birch Bay and Columbia Valley); and
  - c. 16.1% outside of UGAs (in rural and resource lands).
66. The seven city UGAs consist of the land in the city limits and surrounding land designated by the County for urban growth and annexation into the cities. The seven cities do not, as a general matter, allow extension of public water and sewer outside city limits anymore. County urban residential zoning in UGAs allows one dwelling unit/ten acres until public water and sewer are available. The reason for this restriction is to preserve land for urban density development once public water and sewer become available. As a practical matter, this means that new urban density residential developments will not occur in city UGAs until annexation takes place.
67. Expanding UGAs is not a “reasonable measure” in the Buildable Lands program (RCW 36.70A.215(1)(b)). The Buildable Lands program examines the land capacity within existing UGA boundaries to estimate whether the land capacity can accommodate growth through the current planning period ending in 2036.
68. However, population growth and housing allocations for the new planning period through the year 2045 will be adopted in the 2025 comprehensive plan update process. The cities will make recommendations to the County as part of the 2025 comprehensive plan updates whether to expand their respective UGAs or not to accommodate this additional growth. The County Council makes the final decision on UGA expansions.
69. The Growth Management Act requires capital facility planning for transportation, public water, sewer, stormwater, schools, parks, and fire protection facilities in association with the 2025 comprehensive plan updates (RCW 36.70A.070(3)).



70. The Housing Memorandum: Issues Affecting Housing Availability and Affordability (State Department of Commerce, June 2019) indicates:

. . . Appropriate infrastructure of all types is perhaps the single most-important determinant of whether or not otherwise buildable land will be developed or redeveloped. Without appropriate connection and capacity for transportation, water, wastewater, and stormwater in particular, new development or redevelopment of land is extremely unlikely. Thus, lack of infrastructure renders land unavailable for development or redevelopment, limiting the supply of land and potentially driving up prices and costs (p. 59).
71. The Growth Management Act states “In general, cities are the units of local government most appropriate to provide urban governmental services. . .” (RCW 36.70A.110(4)). It is essential that cities plan capital facilities to support housing growth.
72. Whatcom County is not a provider of public water and sewer, which are essential services for urban residential growth. Therefore, Whatcom County will work with water and sewer districts serving the Birch Bay and Columbia Valley UGAs to facilitate appropriate urban growth in these areas.
73. Factors under local government control affect housing production and affordability, such as land capacity, infrastructure, permit timelines, zoning, and complexity of regulations. Cities control these factors in their incorporated boundaries and, therefore, have a large influence on housing in Whatcom County. Whatcom County controls land use regulations and permitting in unincorporated areas, but is not a provider of public water and sewer. Additionally, the County has a responsibility under the Growth Management Act to protect rural character and conserve resource lands.
74. Factors beyond local government control also influence housing production and affordability. The Housing Memorandum: Issues Affecting Housing Availability and Affordability (State Department of Commerce, June 2019) identifies macroeconomic trends including employment, prices/inflation (material and labor costs), and interest rates, along with other factors, that affect housing production and affordability (p. 12).
75. Housing availability and affordability are issues of critical importance in Whatcom County. They are also issues in many other areas around the country. The Joint Center for Housing Studies of Harvard University’s The State of the Nation’s Housing 2022 indicates that home prices in the U.S. have more than doubled from the 2012 low (following the Great Recession) to early 2022 (p. 9). Additionally, Harvard’s report states “. . . The national housing shortage is not just in affordable homes. According to Freddie Mac estimates, the short fall in market-rate housing both for sale and for rent amounts to some 3.8 million units. . . ” (p. 41). Harvard’s report identifies factors under local control, such as land use regulations, along with other factors that have contributed to housing production and affordability issues.

76. Housing needs and affordability will be addressed in the 2025 Comprehensive Plan Update as required by the Growth Management Act. The 2025 Comprehensive Plan update will also “[p]lan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock” as required by RCW 36.70A.020(4).

**77. Based on the foregoing findings, the results of the Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program should not be relied on during the 2025 Comprehensive Plan as evidence that sufficient buildable lands exist within Bellingham to accommodate projected growth for the remainder of the current planning period.**

78. All of the foregoing Recitals and Findings of Fact are legislative findings of the Whatcom County Council and are fully incorporated into the following ordinance as a material part thereof.

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

**Section 1.** The review and evaluation required by the Growth Management Act has occurred and the Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program has been issued in accordance with RCW 36.70A.215.

**Section 2.** The Whatcom County Council hereby adopts the Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program (Exhibit A).

**Section 3.** The Whatcom County Council has determined that reasonable measures are needed for the Birch Bay, Cherry Point, and Columbia Valley Urban Growth Areas (UGAs) pursuant to RCW 36.70A.215.

**Section 4.** For the Birch Bay UGA reasonable measures are needed to address:

- Achieved densities that occurred between 2016 and 2021 that were below the planned densities in Whatcom County Comprehensive Plan Chapter 2 (Goal 2P);
- Land capacity to accommodate the population projection adopted in Whatcom County Comprehensive Plan Chapter 1; and
- Land capacity to accommodate the single family housing need as set forth in Whatcom County Comprehensive Plan Chapter 3.

**Section 5.** For the Cherry Point UGA reasonable measures are needed to address employment growth that occurred between 2016 and 2021 that was significantly below the planned growth projected in Whatcom County Comprehensive Plan Chapter 1. Employment growth would have exceeded the planned growth, except that a major employer shut down in 2020.

**Section 6.** For the Columbia Valley UGA reasonable measures are needed to address employment growth that occurred between 2016 and 2021 that was significantly below the planned growth projected in Whatcom County Comprehensive Plan Chapter 1.

**Section 7.** Reasonable measures are not needed for any other lands in unincorporated Whatcom County.

**Section 8.** The Clerk of the Council is hereby instructed to publish notice of the ordinance adopting the Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program pursuant to RCW 36.70A.290.

**Section 9.** Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

ATTEST:

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

\_\_\_\_\_  
Barry Buchanan, Chairperson

APPROVED as to form:

( ) Approved ( ) Denied

/s/ Karen Frakes

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

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

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