

PROPOSED BY: _____
INTRODUCTION DATE: _____

**ORDINANCE NO. 2022-
RELATING TO THE GROWTH MANAGEMENT ACT; ADOPTING REGULATIONS FOR
FOREST PRACTICES; ADDING A NEW CHAPTER 20.76 WHATCOM COUNTY CODE
(WCC); AND AMENDING CHAPTER 20.80.**

WHEREAS, the Growth Management Act, chapter 36.70A RCW (GMA), requires Whatcom County (the "County") to regulate land use and development within the County's jurisdiction; and

WHEREAS, RCW 76.09.240 of the Forest Practices Act requires those counties planning under GMA with certain population and forest practices permitting thresholds to adopt and enforce regulations over the forest practices in RCW 76.09.240(1)(a)(i) and (ii); and

WHEREAS, the County meets the population and permitting thresholds in RCW 76.09.240(1)(a) of the Forest Practices Act, and therefore must adopt and enforce regulations for forest practices as described in RCW 76.09.240; and

WHEREAS, RCW 76.09.240(2) of the Forest Practices Act requires a written notification to the Department of Natural Resources and Department of Ecology sixty days prior to adoption of the development regulations; and

WHEREAS, those forest practices described in RCW 76.09.240(1)(a)(i) and (ii) of the Forest Practices Act occur on lands with a high likelihood to convert to a nonforestry use, including lands both inside and outside of urban growth areas (UGAs) as designated under RCW 36.70A.110; and

WHEREAS, RCW 76.09.460 of the Forest Practices Act requires the County to deny all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to a Washington State Department of Natural Resources' notice of conversion to a nonforestry use for a period of six years or until the actions listed in RCW 76.09.460(2) are satisfied; and

WHEREAS, RCW 76.09.470 of the Forest Practices act requires the County, upon being contacted by a landowner about that landowner's intent to convert his or her land to a nonforestry use within six years of receiving an approved forest practices application or notification under the Forest Practices Act, to take specific actions that include coordinating with the Washington State Department of Natural Resources and landowner to resolve any outstanding final order or decisions issued by the Washington State Department of Natural Resources, requiring the landowner to comply with chapter 43.21C RCW, if applicable, and assessing if the

condition of the land is in full compliance with the Whatcom County Code; and

WHEREAS, RCW 36.70A.570 of the GMA requires the County to adopt development regulations that protect public resources, are consistent with or supplement the County's critical areas regulations, require appropriate approvals for all phases of the conversion of forest lands, including clearing and grading, and are guided by the planning goals of the GMA and by the purposes and policies of the Forest Practices act when the County assumes regulation of forest practices as described in RCW 76.09.240; and

WHEREAS, on March 15, 2022, the Whatcom County Forestry Advisory Committee reviewed the proposed amendment; and

WHEREAS, notice of the Whatcom County Planning Commission hearing on the proposed amendment was published in the Bellingham Herald on March 11, 2022; and

WHEREAS, the Whatcom County Planning Commission held a work session on the proposed amendment; and

WHEREAS, the Whatcom County Planning Commission held a public hearing on the proposed amendment and considered all testimony on March 24, 2022; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendation; and

WHEREAS, the Whatcom County Council held a work session in the Climate Action and Natural Resources Committee on _____; and

WHEREAS, the Whatcom County Council held a public hearing on the proposed amendment and considered all testimony on _____; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. An application for zoning code amendments was received by Whatcom County on October 19, 2021
2. The proposed amendments were docketed by the Whatcom County Council on March 8, 2022
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on February 14, 2022. The associated

comment period ended February 28, 2022, and the appeal period concluded March 10, 2022.

4. The Whatcom County Forestry Advisory Committee reviewed and recommended for approval the draft code, as amended, on March 15, 2022.
5. The Planning Commission held a duly noticed public hearing on the proposed amendments on March 24, 2022.
6. Notice of the proposed amendment was sent to the Department of Commerce on February 10, 2022.
7. On February 10, 2022, the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.
8. The proposed amendment will have an effective date of August 1, 2022.
9. The Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.
10. Goal 2D: Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). DNR will not process the Class IV - General permit until a Land Disturbance Permit is issued by Whatcom County. The DNR permit process takes a minimum of 15 days. Upon transfer of jurisdiction, a DNR permit will not be required, saving applicants a minimum of 15 days of permit processing time.

11. Goal 2D: Refine the regulatory System to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-4: Coordinate permitting requirements among jurisdictions to minimize duplication and delays.

Upon adoption of the proposed code amendments, DNR will no longer review Class IV – General Forest Practices, as Whatcom County will have sole regulatory jurisdiction. The DNR permit process takes a minimum of 15 days. Eliminating the requirement for a DNR permit will save applicants a minimum of 15 days of permit processing time

12. Goal 3A: Minimize the time required for processing housing-related development and construction permits in the interest of overall cost reduction.

Policy 3A-1: Streamline and simplify existing and proposed permitting processes.

Currently, Class IV – General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV – General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

13. Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-1: Work with state and federal agencies to coordinate and streamline environmental review.

As part of accepting regulatory jurisdiction, Whatcom County has coordinated with the Department of Natural Resources, providing documentation that demonstrates that Whatcom County Code meets the requirements for accepting jurisdiction over these forest practices. DNR will review this documentation, in coordination with the Department of Ecology, and provide Whatcom County with a memorandum acknowledging Whatcom County has met the requirements for receiving jurisdiction. Upon completion of this process, Class IV - General Forest Practice permits will no longer be processed by DNR and these activities will be reviewed solely by Whatcom County, eliminating permit delays and additional costs presently experienced by applicants.

14. Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-6: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

15. Goal 8H: Support increasing the viability of Whatcom County's forest products industry.

Policy 8H-1: Support improving the efficiency and flexibility of state and local environmental regulations affecting the forest products industry, in order to assure environmental protection and improve predictability for the forest products industry while minimizing the regulatory costs to forest landowners.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will result in more efficient permit issuance, as DNR will no longer review these activities. The DNR Class IV - General permit process takes a minimum of 15 days and costs \$1,500. Upon transfer of jurisdiction, a DNR permit will no longer be required, saving applicants a minimum of 15 days of permit processing time as well as permitting fees.

CONCLUSIONS

1. The subject zoning text amendments are consistent with the approval criteria of WCC 22.10.060.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Zoning Code shall be amended as shown in Exhibit A, effective on August 1, 2022.

BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this _____ day of _____, 2022

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

/s/ Royce Buckingham (approved via e-mail) / JL

Royce Buckingham
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____